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## ADVISORS TO THE COMMISSION

SEC. 5. The Commission shall have ten congressional advisors who shall—

(1) be composed of five members of the Senate selected by the Majority Leader of the Senate and five members of the House of Representatives selected by the Speaker of the House of Representatives who have knowledge appropriate to the concerns of the Commission;

(2) advise the Majority Leader of the Senate and the Speaker of the House of Representatives on compiling the list of nominees described in subsection (e) of section 4; and

(3) advise the Commission in the formulation of findings and recommendations.

## FUNCTIONS OF THE COMMISSION

SEC. 6. (a)(1) The Commission shall develop recommendations to the President and to Congress on a comprehensive national marine policy to carry out the purpose of this Act.

(2) The Commission shall develop recommendations on the international and domestic ocean policies, laws, regulations, and activities of the United States that will define and implement the policy recommended pursuant to paragraph (1). Such recommendations shall—

(A) address domestic and international marine policy issues;

(B) include any modifications in existing United States policies, laws, regulations, and practices necessary to develop efficient long-range programs for—

(i) research in marine and atmospheric sciences;

(ii) the understanding, conservation, management, and development of, marine resources; and

(iii) the protection of the marine environment;

(C) address the most equitable allocation of responsibilities for research in marine and atmospheric sciences and for the understanding, conservation, management, and development of marine resources among Federal agencies, State and local government, and the private sector; and

(D) consider any other aspects of United States marine-related policies, laws, regulations, and practices considered necessary by the Commission in carrying out its duties pursuant to this subsection.

(b) In developing recommendations under subsection (a) the Commission shall—

(1) survey and review all existing and planned marine activities of Federal agencies and departments, including—

(A) marine research, including undersea research;

(B) ocean pollution, including estuarine, coastal and Great Lakes pollution, ocean dumping and ocean incineration;

(C) marine technology development, including biotechnology;

(D) satellite oceanography;

(E) navigation and shipping;

(F) defense;

(G) global oceanic and atmospheric processes;

(H) coastal ocean and estuarine processes; and

(I) the understanding, development, management, and conservation of living and nonliving resources;

(2) survey and review all existing and planned marine facilities and equipment, including surface ships, undersea research vehicles and habitats, computers, oceanographic satellites, and other appropriate research tools;

(3) evaluate the relationships among Federal agencies, State and local government and the private sector for planning and carrying out the activities described in this sub-

section, considering areas of substantial coincidence of interest and responsibilities among the various levels of government, academia, industry, and the public interest community and other users of the marine environment, in order to enhance the efficient use of marine resources;

(4) consider Presidential Proclamation 5030 of March 10, 1983, on the Exclusive Economic Zone of the United States of America, including an examination of activities within the exclusive economic zone which have a major impact on coastal States and the waters at such States and the adequacy of present laws to regulate such activities in such a way as to minimize conflict; and

(5) consider the relationships of United States policies to the Convention of the Law of the Sea and actions available to the United States to affect peaceful collaborations between the United States and other nations, including the development of cooperative international marine programs which will facilitate opportunities for United States scientists to work with foreign nations in the waters of such nations and vice versa and to provide for the development of such programs in the United States.

## POWERS OF THE COMMISSION

SEC. 7. (a) The Commission is authorized to secure directly from any department or agency of the United States any information it deems necessary to carry out its functions under this Act. Each department or agency shall cooperate with the Commission and, to the extent permitted by law, furnish information to the Commission upon request of the Chairman.

(b) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(c) The General Services Administration shall provide to the Commission on a reimbursable basis the administrative support services that the Commission may request.

(d) The Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals to assist the Commission in carrying out its duties. The Commission may purchase and contract without regard to section 252 of title 41, United States Code, pertaining to advertising and competitive bidding, and may arrange for printing without regard to the provisions of title 44, United States Code. The contracting authority of the Commission under this Act is effective only to the extent that appropriations are available for contracting purposes.

## ADMINISTRATIVE PROVISIONS

SEC. 8. (a) Upon request of the Commission, the head of any Federal agency shall detail any of the personnel of such agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act. Such detail shall be on a reimbursable basis.

(b) The Commission is authorized to accept and use the services of volunteers serving without compensation, and to reimburse volunteers for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, a volunteer shall not be considered an employee of the United States for any purpose.

(c) To the extent that funds are available, and subject to the rules that may be prescribed to the Commission, the Director appointed pursuant to section 9(a) may procure the temporary and intermittent serv-

ices of experts and consultants under section 3109(b) of title 5, United States Code, but at rates not to exceed the rate of pay for GS-18 of the General Schedule.

## DIRECTOR AND STAFF OF COMMISSION

SEC. 9. (a) The Commission shall have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the rate of basic pay for GS-18 of the General Schedule. The Director shall be knowledgeable in administrative management and oceans policy or marine sciences.

(b) Subject to such rules as may be prescribed by the Commission, the Director may hire staff for the Commission and shall fix appropriate compensation. The hiring and compensation of the Director and staff under this section may occur without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

## COMPENSATION OF MEMBERS

SEC. 10. (a) Members of the Commission appointed by the President pursuant to paragraph (4) of subsection (e) of section 4 shall be paid at a rate not to exceed the basic pay for a GS-18 of the General Schedule for each day, including traveltime, during which such members are engaged in the actual performance of the Commission duties.

(b) Members of the Commission who are officers or employees of the United States may not receive pay for service on the Commission, but shall be reimbursed for travel expenses, including per diem in lieu of subsistence as may be authorized by law for persons in Government service employed intermittently.

## COMMISSION REPORT

SEC. 11. No later than eighteen months after the Commission first meets, the Commission shall submit to the President and to each House of the Congress a detailed final report of findings and recommendations pursuant to section 6 of this Act.

## TERMINATION OF THE COMMISSION

SEC. 12. The Commission shall be terminated thirty days after the date of submission of the final report pursuant to section 11.

## AUTHORIZATION OF APPROPRIATIONS

SEC. 13. There are authorized to be appropriated such sums as are necessary to carry out the purpose of this Act, not to exceed \$2,000,000, to remain available until expended.

By Mr. LUGAR (for himself, Mr. McConnell, and Mr. Durenberger):

S. 2701. A bill to provide a comprehensive policy for the United States in opposition to the system of apartheid in South Africa; and for other purposes; to the Committee on Foreign Relations.

## COMPREHENSIVE ANTI-APARTHEID ACT

● Mr. LUGAR. Mr. President, today I have introduced on behalf of myself and Senators McConnell and Durenberger, a bill to provide for targeted sanctions against the Government of South Africa and against specified groups in South Africa which are closely associated with the National Party Government of that country and the system of apartheid. We have

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sought, to the maximum extent possible, to target sanctions in such a way as to avoid unintentional or avoidable harm to those in South Africa who do not vote for the Government of that country and especially to avoid harm to those who cannot vote at all. There are several measures that have already been introduced in this body which seek to impose sweeping restrictions that would impact most severely on those who have been victimized by the Government of the Republic of South Africa. It would be a tactical and moral mistake, I believe, to impose sanctions, ostensibly designed to pressure the South African Government, on those who bear no responsibility for and have no influence with that Government.

The bill provides for an embargo on the import of products produced by the South African Government's state corporations. These corporations are under the control of the Government and staffed by supporters of that Government in managerial, supervisory and administrative positions. This provision will prohibit \$100 million worth of imports into the United States from the state-owned ISCOR Steel Co., as well as some coal, uranium, aluminum, cement, and ferroalloys. Imports for America's essential needs can be met by imports from non-Government producers many of whom are financial and political supporters of the effort to overcome apartheid and establish a nonracial democracy.

This provision, if fully effective, will have a strong financial impact on employment and profits in these Government-run corporations. Moreover, given the world glut of these products, I think this measure will be effective. This will send a clear, targeted message to the South African Government.

Similarly, the bill ends landing rights for the state-owned airline, South African Airways, immediately upon the expiration of the notice period required by international law under which these flights take place. The airline, like all other state-owned corporations, is staffed primarily by Government supporters.

Consistent with the goal of applying sanctions to those who bear the moral and political responsibility for the present situation in South Africa and for the lack of democracy, the bill provides that South African Government agency or parastatal corporations may not hold bank accounts in this country except for diplomatic purposes. Again, this is a targeted sanction against those responsible for apartheid, not against all South Africans.

This is an excellent example of the difference between the carefully targeted bill we have introduced today and the sweeping, indiscriminate, and untargeted actions that have been discussed in other measures.

It is important, I believe, to keep the focus of this bill on the issue of apartheid. There are those who will be

mightily tempted to offer amendments that ban products from South Africa that compete with the products of their states. Several industries have been mentioned as possible beneficiaries of a cut off of South African products. I would urge my colleagues to restrain from these amendments because we should send a clear message to the South African Government about apartheid. To distort that message with protectionist amendments will send an unclear signal.

I would hope, Mr. President, that all partisan feelings will be put aside on this important issue. Our goal should be to send a message of national unity—Democrat and Republican, Congress, the President and the people of this country—to the people of South Africa about our hopes for their country. We are eager, Mr. President, to reach out to the people of South Africa and to welcome them to the community of real democracies. South Africa's potential for democracy can only be realized if it commences immediately the process of negotiation and compromise that can lead to a national agreement on a new constitutional order allowing full participation by all citizens.

Mr. President, the question is whether the United States is going to be a vigorous and active participant in the movement to promote a truly dynamic, democratic system in South Africa, or will seek to withdraw itself from the inevitable process of change in that country. In the face of a seemingly intractable problem, the American people have always rolled up their sleeves, not washed their hands of it. The situation in South Africa is too serious for acts of desperation or resignation on our part.

Any American effort to serve as a trusted and reliable friend of both black and white South Africans, encouraging their progress and reforms because they benefit us as well, will always risk the anger of elements in both the United States and South Africa whose interests would be furthered by worsening conditions. We want to prevent a bloody civil war and the destruction of a nation. In my judgment, the United States must work to encourage the writing of a peace treaty in South Africa now by all South Africans before, and not after, such a war.

The Committee on Foreign Relations will hold hearings on this legislation tomorrow starting at 9 o'clock. At this point, I would like to request unanimous consent that the bill be printed in the RECORD, along with a summary of the bill and a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Anti-Apartheid Act of 1986".

## TABLE OF CONTENTS

SEC. 2. The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Purpose.

## TITLE I—POLICY OF THE UNITED STATES WITH RESPECT TO ENDING APARTHEID

- Sec. 101. Policy toward the Government of South Africa.
- Sec. 102. Policy toward the victims of apartheid.
- Sec. 103. Policy toward other countries in Southern Africa.
- Sec. 104. Policy toward a negotiated settlement.
- Sec. 105. Policy toward international cooperation on measures to end apartheid.

## TITLE II—MEASURES TO ASSIST VICTIMS OF APARTHEID

- Sec. 201. Scholarships for the victims of apartheid.
- Sec. 202. Human rights fund.
- Sec. 203. Expanding participation in the South African economy.
- Sec. 204. Export-Import Bank of the United States.
- Sec. 205. Labor practices of the United States Government in South Africa.
- Sec. 206. Welfare and protection of the victims of apartheid employed by the United States.
- Sec. 207. Employment practices of United States nationals in South Africa.
- Sec. 208. Code of Conduct.
- Sec. 209. Prohibition on assistance.
- Sec. 210. Prohibition on new investments in certain firms.

## TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID

- Sec. 301. Prohibition on the importation of kruggerands.
- Sec. 302. Prohibition on the importation of military articles.
- Sec. 303. Prohibition of the importation of products from parastatal organizations.
- Sec. 304. Prohibition on computer exports to South Africa.
- Sec. 305. Prohibition on loans to the Government of South Africa.
- Sec. 306. Prohibition on air transportation with South Africa.
- Sec. 307. Prohibitions on nuclear trade with South Africa.
- Sec. 308. Restrictions on issuance of visas to South African nationals.
- Sec. 309. Sales of gold stocks.
- Sec. 310. Government of South Africa bank accounts.
- Sec. 311. Termination of certain provisions.

## TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

- Sec. 401. Negotiating authority.
- Sec. 402. Unfair trade practices.
- Sec. 403. Private right of action.

## TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA

- Sec. 501. Additional measures.
- Sec. 502. Study of health conditions in the "homelands" areas of South Africa.
- Sec. 503. Reports on South African imports.

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- Sec. 504. Study and report on the economy of southern Africa.
- Sec. 505. Report on relations between other industrialized democracies and South Africa.

## TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

- Sec. 601. Regulatory authority.
- Sec. 602. Congressional priority procedures.
- Sec. 603. Enforcement and penalties.
- Sec. 604. Applicability to evasions of Act.
- Sec. 605. Construction of Act.

## DEFINITIONS

Sec. 3. As used in this Act—

(1) the term "controlled South African entity" means—

(A) a corporation, partnership, or other business association or entity organized in South Africa and owned or controlled, directly or indirectly, by a national of the United States; or

(B) a branch, office, agency, or sole proprietorship in South Africa of a national of the United States; and

(2) the term "new investment"—

(A) means—

(i) a commitment or contribution of funds or other assets; and

(ii) a loan or other extension of credit;

(B) but does not include—

(i) reinvestment of profits generated by a controlled South African entity into that same controlled South African entity or investment of such profits in another controlled South African entity;

(ii) contributions of money or other assets where such contributions are necessary to enable a controlled South African entity to operate in an economically sound manner, without expanding its operations; and

(iii) the ownership or control of a share or interest in a controlled South African entity, or the transfer or acquisition of such a share or interest, provided that any such transfer or acquisition does not result in a payment or contribution of funds or assets to the controlled South African entity.

(3) the term "national of the United States" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States or is an alien lawfully admitted for permanent residence in the United States, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); or

(B) a corporation, partnership, or other business association which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia.

(4) the term "Secretary" means the Secretary of State;

(5) the term "South Africa" refers to the territory that constituted the Republic of South Africa on May 31, 1961; and

(6) the term "Code of Conduct" refers to the principles set forth in section 208(a).

## PURPOSE

SEC. 4. The purpose of this Act is to set forth a comprehensive and complete framework to guide the efforts of the United States in helping to bring an end to apartheid in South Africa and lead to the establishment of a nonracial, democratic form of government. This Act sets out United States policy toward the Government of South Africa, the victims of apartheid, and the other states in southern Africa. It also provides the President with additional authority to work with the other industrial democracies to help end apartheid and establish democracy in South Africa.

## TITLE I—POLICY OF THE UNITED STATES WITH RESPECT TO ENDING APARTHEID

## POLICY TOWARD THE GOVERNMENT OF SOUTH AFRICA

SEC. 101. (a) United States policy toward the Government of South Africa shall be designed to bring about reforms in that system of government that will lead to the establishment of a nonracial democracy.

(b) The United States shall work toward this goal by encouraging the Government of South Africa to—

(1) suspend the present state of emergency and respect the principal of equal justice under law for citizens of all races;

(2) release Nelson Mandela, Govan Mbeki, Walter Sisulu, black trade union leaders, and all political prisoners;

(3) permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process;

(4) establish a timetable for the elimination of apartheid laws;

(5) negotiate with representatives of all racial groups in South Africa the future political system in South Africa; and

(6) end military and paramilitary activities aimed at neighboring states.

(c) The United States will encourage the actions set forth in subsection (b) through economic, political, and diplomatic measures as set forth in this Act. The United States will adjust its actions toward the Government of South Africa to reflect the progress or lack of progress made by the Government of South Africa in meeting the goal set forth in subsection (a).

## POLICY TOWARD THE VICTIMS OF APARTHEID

SEC. 102. (a) The United States policy toward the victims of apartheid is to use economic, political, diplomatic, and other effective means to achieve the removal of the root cause of their victimization, which is the apartheid system. In anticipation of the removal of the system of apartheid and as a further means of challenging that system, it is the policy of the United States to assist these victims of apartheid as individuals and through organizations to overcome the handicaps imposed on them by the system of apartheid and to prepare themselves for their rightful roles as full participants in the political, social, economic, and intellectual life of their country in the post-apartheid South Africa envisioned by this Act.

(b) The United States will work toward the purposes of subsection (a) by—

(1) providing assistance to South African victims of apartheid without discrimination by race, color, sex, religious belief, or political orientation, to take advantage of educational opportunities in South Africa and in the United States to prepare for leadership positions in a post-apartheid South Africa;

(2) assisting victims of apartheid;

(3) aiding individuals or groups in South Africa whose goals are to aid victims of apartheid or foster nonviolent legal or political challenges to the apartheid laws;

(4) furnishing direct financial assistance to those whose nonviolent activities had led to their arrest or detention by the South African authorities;

(5) intervening at the highest political levels in South Africa to express the strong desire of the United States to see the development in South Africa of a nonracial democratic society; and

(6) supporting the rights of the victims of apartheid through political, economic, or other sanctions in the event the Government of South Africa government fails to make progress toward the removal of the apartheid laws and the establishment of such democracy.

## POLICY TOWARD OTHER COUNTRIES IN SOUTHERN AFRICA

SEC. 103. (a) The United States policy toward the other countries in the Southern African region shall be designed to encourage democratic forms of government, full respect for human rights, political independence, and economic development.

(b) The United States will work toward the purposes of subsection (a) by—

(1) helping to secure the independence of Namibia and the establishment of Namibia on a nonracial democracy in accordance with appropriate United Nations Security Council resolutions;

(2) supporting the removal of all foreign military forces from the region;

(3) encouraging the nations of the region to settle differences through peaceful means;

(4) promoting economic development through bilateral and multilateral economic assistance targeted at increasing opportunities in the productive sectors of national economies, with a particular emphasis on increasing opportunities for nongovernmental economic activities;

(5) encouraging, and when necessary, strongly demanding, that all countries of the region respect the human rights of their citizens and noncitizens residing in the country, and especially the release of persons persecuted for their political beliefs or detained without trial; and

(6) providing appropriate assistance, within the limitations of American responsibilities at home and in other regions, to assist regional economic cooperation and the development of interregional transportation and other capital facilities necessary for economic growth.

## POLICY TOWARD A NEGOTIATED SETTLEMENT

SEC. 104. (a) United States policy will seek to promote negotiations among representatives of all citizens of South Africa to determine a future political system that would permit all citizens to be full participants in the governance of their country. The United States recognizes that important and legitimate political parties in South Africa include several organizations that have been banned and will work for the unbanning of such organizations in order to permit legitimate political viewpoints to be represented at such negotiations.

(b) The United States will encourage the Government of South Africa and all participants to the negotiations to respect the right of all South Africans to form political parties, express political opinions, and otherwise participate in the political process without fear of retribution by either governmental or nongovernmental organizations. It is the sense of the Congress that a suspension of violence is an essential precondition for the holding of negotiations. The United States calls upon all parties to the conflict to agree to a suspension of violence.

(c) The United States shall work toward the achievement of agreement to suspend violence and begin negotiations through coordinated actions with the major Western allies and with the governments of the countries in the region.

(d) It is the sense of the Congress that the achievement of an agreement for negotiation could be promoted if the United States and its major allies, such as Great Britain, Canada, France, Italy, Japan, and West Germany, would hold a meeting to develop a four-point plan to discuss with the Government of South Africa a proposal for stages of multilateral assistance to South Africa in return for the Government of South Africa implementing—

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(1) an end to the state of emergency and the release of the political prisoners, including Nelson Mandela;

(2) the unbanning of the African National Congress, the Pan African Congress, the Black Consciousness Movement, and all other groups willing to participate in negotiations and a democratic process;

(3) a revocation of the Group Areas Act and the Population Registration Act and the granting of universal citizenship to all South Africans, including homeland residents; and

(4) the use of the international offices of a third party as an intermediary to bring about negotiations with the object of establishment of power-sharing with the black majority.

## POLICY TOWARD INTERNATIONAL COOPERATION ON MEASURES TO END APARTHEID

SEC. 105. (a) The Congress finds that—

(1) international cooperation is a prerequisite to an effective anti-apartheid policy; and

(2) the situation in South Africa constitutes an emergency in international relations and that action is necessary for the protection of the essential security interests of the United States.

(b) Accordingly, the Congress urges the President to seek such cooperation among all individuals, groups, and nations.

## TITLE II—MEASURES TO ASSIST VICTIMS OF APARTHEID

## SCHOLARSHIPS FOR THE VICTIMS OF APARTHEID

SEC. 201. Section 105(b) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Of the assistance provided under this section by the Administrator of the agency primarily responsible for administering this part of this Act—

"(i) for the fiscal year 1987, \$8,000,000;

"(ii) for the fiscal year 1988, \$11,000,000; and

"(iii) for the fiscal year 1989 and each fiscal year thereafter, \$15,000,000,

shall be used to finance education, training, and scholarships for the victims of apartheid who are attending universities, colleges, and secondary schools in South Africa and who are selected in accordance with subparagraph (B). Of the funds available under the preceding sentence to carry out this subparagraph, not less than one-third shall be available only for assistance to full-time teachers or other educational professionals pursuing studies toward the improvement of their professional credentials.

"(B) Of the funds provided in subparagraph (A) for each fiscal year, 50 percent shall be available for educational assistance for the victims of apartheid in accordance with section 802(c) of the International Security and Development Cooperation Act of 1985. The remainder of the funds in each fiscal year which are not made available under the preceding sentence shall be available to finance scholarships for individuals selected by a nationwide panel or by regional panels composed solely of members of the teaching profession appointed by the United States chief of diplomatic mission to South Africa. No such individual may be selected through any contract entered into with the agency primarily responsible for administering this part of this Act."

## HUMAN RIGHTS FUND

SEC. 202. (a) Section 116(e)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "1984 and" and inserting in lieu thereof "1984"; and

(2) by inserting after "1985" a comma and the following: "and \$1,500,000 for the fiscal

year 1986 and for each fiscal year thereafter".

(b) Section 116 of such Act is amended by adding at the end thereof the following new subsection:

"(f) Of the funds made available to carry out subsection (e)(2)(A) for each fiscal year, \$350,000 shall be used for direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protesters and prisoners, and for support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies such as—

"(1) removal of black populations from certain geographic areas on account of race or ethnic origin,

"(2) denationalization of blacks, including any distinctions between the South African citizenships of blacks and whites,

"(3) residence restrictions based on race or ethnic origin,

"(4) restrictions on the rights of blacks to seek employment in South Africa and live wherever they find employment in South Africa, and

"(5) restrictions which make it impossible for black employees and their families to be housed in family accommodations near their place of employment."

## EXPANDING PARTICIPATION IN THE SOUTH AFRICAN ECONOMY

SEC. 203. (a) The Congress declares that—

(1) the denial under the apartheid laws of South Africa of the rights of South African blacks and other nonwhites to have the opportunity to participate equitably in the South African economy as managers or owners of, or professionals in, business enterprises, and

(2) the policy of confining South African blacks and other nonwhites to the status of employees in minority-dominated businesses,

is an affront to the values of a free society.

(b) The Congress hereby—

(1) applauds the commitment of nationals of the United States adhering to the Code of Conduct to assure that South African blacks and other nonwhites are given assistance in gaining their rightful place in the South African economy; and

(2) urges the United States Government to assist in all appropriate ways the realization by South African blacks and other nonwhites of their rightful place in the South African economy.

(c) Notwithstanding any other provision of law, the Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans.

## EXPORT-IMPORT BANK OF THE UNITED STATES

SEC. 204. Section 2(b)(9) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "(9) In" and inserting in lieu thereof "(9)(A) Except as provided in subparagraph (B), in"; and

(2) by adding at the end thereof the following:

"(B) The Bank shall take active steps to encourage the use of its facilities to guarantee, insure, extend credit, or participate in the extension of credit to business enterprises in South Africa that are majority owned by South African blacks or other nonwhite South Africans. The certification requirement contained in clause (c) of subparagraph (A) shall not apply to exports to or purchases from business enterprises which are majority owned by South African blacks or other nonwhite South Africans."

## LABOR PRACTICES OF THE UNITED STATES GOVERNMENT IN SOUTH AFRICA

SEC. 205. (a) It is the sense of the Congress that the labor practices used by the United States Government—

(1) for the direct hire of South Africans,

(2) for the reimbursement out of official residence funds of South Africans and employees of South African organizations for their long-term employment services on behalf of the United States Government, and

(3) for the employment services of South Africans arranged by contract,

should represent the best of labor practices in the United States and should serve as a model for the labor practices of nationals of the United States in South Africa.

(b) The Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall promptly take, to the extent permitted by law, the necessary steps to ensure that the labor practices applied to the employment services described in paragraphs (1) through (3) of subsection (a) are governed by the Code of Conduct.

## WELFARE AND PROTECTION OF VICTIMS OF APARTHEID BY THE UNITED STATES

SEC. 206. (a) The Secretary shall acquire, through lease or purchase, residential properties in the Republic of South Africa that shall be made available, at rents that are equitable, to assist victims of apartheid who are employees of the United States Government in obtaining adequate housing. Such properties shall be acquired only in neighborhoods which would be open to occupancy by other employees of the United States Government in South Africa.

(b) There are authorized to be appropriated \$10,000,000 for the fiscal year 1987 to carry out the purposes of this section.

## EMPLOYMENT PRACTICES OF UNITED STATES NATIONALS IN SOUTH AFRICA

SEC. 207. (a) Any national of the United States that employs more than 25 persons in South Africa shall take the necessary steps to insure that the Code of Conduct is implemented.

(b) No department or agency of the United States may intercede with any foreign government or foreign national regarding the export marketing activities in any country of any national of the United States employing more than 25 persons in South Africa that is not implementing the Code of Conduct.

## CODE OF CONDUCT

SEC. 208. (a) The Code of Conduct referred to in sections 203, 205, 207, and 210 of this Act is as follows:

(1) Desegregating the races in each employment facility;

(2) Providing equal employment opportunity for all employees without regard to race or ethnic origin;

(3) Assuring that the pay system is applied to all employees without regard to race or ethnic origin;

(4) Establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families;

(5) Increasing by appropriate means the number of persons in managerial, supervisory, administrative, clerical, and technical jobs who are disadvantaged by the apartheid system for the purpose of significantly increasing their representation in such jobs;

(6) Taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing.

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transportation, schooling, recreation, and health;

(7) Implementing fair labor practices by recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity.

(b) It is the sense of the Congress that in addition to the principles enumerated in subsection (a), nationals of the United States subject to section 207 should seek to comply with the following principle: taking reasonable measures to extend the scope of influence on activities outside the workplace, including—

(1) supporting the unrestricted rights of black businesses to locate in urban areas;

(2) influencing other companies in South Africa to follow the standards of equal rights principles;

(3) supporting the freedom of mobility of black workers to seek employment opportunities wherever they exist, and make provision for adequate housing for families of employees within the proximity of workers' employment; and

(4) supporting the rescission of all apartheid laws.

(c) The President may issue additional guidelines and criteria to assist persons who are or may be subject to section 207 in complying with the principles set forth in subsection (a) of this section. The President may, upon request, give an advisory opinion to any person who is or may be subject to this section as to whether that person is subject to this section or would be considered to be in compliance with the principles set forth in subsection (a).

(d) The President may require all nationals of the United States referred to in section 207 to register with the United States Government.

(e) Notwithstanding any other provision of law, the President may enter into contracts with one or more private organizations or individuals to assist in implementing this section.

#### PROHIBITION ON ASSISTANCE

Sec. 209. No assistance may be provided under this Act to any group which maintains within its ranks any individual who has been found to engage in gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

#### PROHIBITION ON NEW INVESTMENTS IN CERTAIN FIRMS

Sec. 210. No national of the United States may make or approve any new investment in South Africa to, or on behalf of, any controlled South African entity employing 25 or more individuals if such entity is not implementing the Code of Conduct.

#### TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID

##### PROHIBITION ON THE IMPORTATION OF KRUGERRANDS

Sec. 301. (a) No person, including a bank, may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

(b) For purposes of this section, the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

##### PROHIBITION ON THE IMPORTATION OF MILITARY ARTICLES

Sec. 302. No arms, ammunition, or military vehicles produced in South Africa or any manufacturing data for such articles may be imported into the United States.

##### PROHIBITION ON THE IMPORTATION OF PRODUCTS FROM PARASTATAL ORGANIZATIONS

Sec. 303. (a) Notwithstanding any other provision of law, no article which is grown, produced, or manufactured by a parastatal organization of South Africa may be imported into the United States, except for those strategic minerals for which the President has certified to the Congress that the quantities essential for the economy or defense of the United States are unavailable from reliable and secure suppliers.

(b) For purposes of this section, the term "parastatal organization" means a corporation or partnership owned or controlled by the Government of South Africa.

##### PROHIBITION ON COMPUTER EXPORTS TO SOUTH AFRICA

Sec. 304. (a) No computers, computer software, or goods or technology intended to manufacture or service computers may be exported to or for use by any of the following entities of the Government of South Africa:

(1) The military.

(2) The police.

(3) The prison system.

(4) The national security agencies.

(5) ARMSCOR and its subsidiaries or the weapons research activities of the Council for Scientific and Industrial Research.

(6) The administering authorities for controlling the movements of the victims of apartheid.

(7) Any apartheid enforcing agency.

(8) Any local, regional, or homelands government entity which performs any function of any entity described in paragraphs (1) through (7).

(b)(1) Computers, computer software, and goods or technology intended to service computers may be exported, directly or indirectly, to or for use by an entity of the Government of South Africa other than those set forth in subsection (a) only if a system of end use verification is in effect to ensure that the computers involved will not be used for any function of any entity set forth in subsection (a).

(2) The Secretary of Commerce may prescribe such rules and regulations as may be necessary to carry out this section.

##### PROHIBITION ON LOANS TO THE GOVERNMENT OF SOUTH AFRICA

Sec. 305. (a) No national of the United States may make or approve any loan or other extension of credit, directly or indirectly, to the Government of South Africa or to any corporation, partnership or other organization which is owned or controlled by the Government of South Africa.

(b) The prohibition contained in subsection (a) shall not apply to—

(1) a loan or extension of credit for any education, housing, or humanitarian benefit which—

(A) is available to all persons on a nondiscriminatory basis; or

(B) is available in a geographic area accessible to all population groups without any legal or administrative restriction; or

(2) a loan or extension of credit for which an agreement is entered into before the date of enactment of this Act.

##### PROHIBITION ON AIR TRANSPORTATION WITH SOUTH AFRICA

Sec. 306. (a)(1) The Secretary of State shall terminate the Agreement Between the Government of the United States of America and the Government of the Union of South Africa Relating to Air Services Between Their Respective Territories, signed May 23, 1947, in accordance with the provisions of that agreement.

(2) Upon termination of such agreement, the Secretary of Transportation shall pro-

hibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals from engaging in air transportation with respect to the United States.

(b) The Secretary of Transportation may provide for such exceptions from the prohibition contained in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers are threatened.

(c) For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

##### PROHIBITIONS ON NUCLEAR TRADE WITH SOUTH AFRICA

Sec. 307. (a) Notwithstanding any other provision of law—

(1) the Nuclear Regulatory Commission shall not issue any license for the export to South Africa of production or utilization facilities, any source or special nuclear material or sensitive nuclear technology, or any component parts, items, or substances which the Commission has determined, pursuant to section 109b of the Atomic Energy Act, to be especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes.

(2) the Secretary of Commerce shall not issue any license for the export to South Africa of any goods or technology which have been determined, pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, to be of significance for nuclear explosive purposes for use in, or judged by the President to be likely to be diverted to, a South African production or utilization facility.

(3) the Secretary of Energy shall not, under section 57b.(2) of the Atomic Energy Act, authorize any person to engage, directly or indirectly, in the production of special nuclear material in South Africa, and

(4) no goods, technology, source or special nuclear material, facilities, components, items, or substances referred to in clauses (1) through (3) shall be approved by the Nuclear Regulatory Commission or an executive branch agency for retransfer to South Africa,

unless the Secretary of State determines and certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that the Government of South Africa is a party to the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, or otherwise maintains International Atomic Energy Agency safeguards on all its peaceful nuclear activities, as defined in the Nuclear Non-Proliferation Act of 1978.

(b) Nothing in this section shall preclude—

(1) any export, retransfer, or activity generally licensed or generally authorized by the Nuclear Regulatory Commission or the Department of Commerce or the Department of Energy, or

(2) assistance for the purpose of developing or applying International Atomic Energy Agency or United States bilateral safeguards, for International Atomic Energy Agency programs generally available to its member states, for reducing the use of highly enriched uranium in research or test reactors, or for other technical programs for the purpose of reducing proliferation risks, such as programs to extend the life of reactor fuel and activities envisaged by section 223 of the Nuclear Waste Policy Act of 1982



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or which are necessary for humanitarian reasons to protect the public health and safety.

(c) The prohibitions contained in subsection (a) shall not apply with respect to a particular export, retransfer, or activity, or a group of exports, retransfers, or activities, if the President determines that to apply the prohibitions would be seriously prejudicial to the achievement of United States non-proliferation objectives or would otherwise jeopardize the common defense and security of the United States and, if at least 60 days before the initial export, retransfer, or activity is carried out, the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth that determination, together with his reasons therefor.

#### RESTRICTIONS ON ISSUANCE OF VISAS TO SOUTH AFRICAN NATIONALS

SEC. 308. (a) The Congress finds that—

(1) American journalists, scholars, and clergy, among others, have experienced problems in obtaining visas to visit South Africa; and

(2) South African officials may have visited the United States to gather, surreptitiously, information useful in circumventing the international arms embargo in effect against South Africa.

(b)(1) Notwithstanding any other provision of law, the President shall define a class of persons consisting of all South African Government officials, including individuals performing services for the Government of South Africa, and members of their immediate families.

(2) On or after the date of enactment of this Act, no visa for admission to the United States may be issued to any individual in such class except on a case-by-case basis in the discretion of the Secretary of State.

(3) No visa issued before the date of enactment of this Act to a nonimmigrant alien described in section 101(a)(15)(A) of the Immigration and Nationality Act shall be valid after a date which is 30 days after the date of enactment of this Act.

#### SALES OF GOLD STOCKS

SEC. 309. Whenever the President determines that such action is necessary or appropriate to affect the price of gold on the world markets and thereby to carry out the provisions of this Act, the President is authorized to sell United States gold stocks on the open market and to engage in other transactions involving gold in such manner as the President may prescribe.

#### GOVERNMENT OF SOUTH AFRICA BANK ACCOUNTS

SEC. 310. (a) A United States depository institution may not accept, receive, or hold a deposit account from the Government of South Africa or from any agency or entity owned or controlled by the Government of South Africa except for such accounts which may be authorized by the President for diplomatic and consular purposes. For the purpose of the preceding sentence, the term "depository institution" has the same meaning as in section 19(b)(1) of the Federal Reserve Act.

(b) The prohibition contained in subsection (a) shall take effect 45 days after the date of enactment of this Act.

#### TERMINATION OF CERTAIN PROVISIONS

SEC. 311. (a) The provisions of sections 301 through 310 and sections 501(c) and 503(b) shall terminate if the Government of South Africa—

(1) releases Nelson Mandela from prison;

(2) repeals the state of emergency in effect on the date of enactment of this Act and releases all detainees held under such state of emergency;

(3) unbans political parties; and

(4) repeals the Group Areas Act.

(b) The President may suspend or modify any of the measures required by sections 301 through 310 or section 501 or 503 30 days after he determines, and so reports to the Congress, that the Government of South Africa has—

(1) taken any two of the four actions listed in subsection (a), and

(2) made substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy,

if the Congress does not enact within such 30-day period, in accordance with section 602 of this Act, a joint resolution disapproving the determination of the President under this subsection.

#### TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

##### NEGOTIATING AUTHORITY

SEC. 401. (a)(1) It is the policy goal of the United States to seek international cooperation with the industrialized democracies on measures which will encourage an end to apartheid. The net economic effect of such cooperation should be at least equal to the net economic effect of the measures imposed by this Act.

(2) For the purposes of paragraph (1), the term "net economic effect" means the cumulative impact on the South African economy as a whole of the measures imposed under sections 301 through 310.

(b) Negotiations to reach international cooperative arrangements with the other industrialized democracies should begin promptly and should be concluded not later than 180 days after the date of enactment of this Act.

(c) If the President successfully concludes an international agreement on measures described in subsection (a), he may, 30 days after the text of such agreement has been received by the Congress, adjust, modify, or otherwise amend the measures imposed under any provision of sections 301 through 310 to conform with such agreement.

(d) Each agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if (and only if)—

(1) the President, not less than 30 days before the day on which he enters into such agreement, notifies the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the agreement, the President transmits a document to the House of Representatives and to the Senate containing a copy of the final legal text of such agreement together with—

(A) a statement of any administrative action proposed to implement such agreement, and an explanation as to how the implementing bill and proposed administrative action change or affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interest of United States foreign policy and as to why the proposed administrative action is required or appropriate to carry out the agreement; and

(3) a joint resolution of disapproval has not been adopted within 30 days of transmittal of such document to the Congress.

##### UNFAIR TRADE PRACTICES

SEC. 402. The Congress declares that it shall be an unfair trade practice under section 301(a)(1)(B)(ii) of the Trade Act of 1974 for any foreign person, partnership, or corporation to benefit from or otherwise take commercial advantage of any sanction or prohibition against any national of the United States imposed by or under this Act.

##### PRIVATE RIGHT OF ACTION

SEC. 403. (a) Any national of the United States who is required by this Act to terminate or curtail business activities in South Africa may bring a civil action for damages against any person, partnership, or corporation that takes commercial advantage or otherwise benefits from such termination or curtailment.

(b) The action described in subsection (a) may only be brought, without respect to the amount in controversy, in the United States district court for the District of Columbia or the Court of International Trade. Damages which may be recovered include profits lost as a result of this Act and the cost of bringing the action, including a reasonable attorney's fee.

(c) The injured party must show by a preponderance of the evidence that the damages have been the direct result of defendant's action taken with the deliberate intent to injure the party.

#### TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA

##### ADDITIONAL MEASURES

SEC. 501. (a) It shall be the policy of the United States to impose additional measures against the Government of South Africa if substantial progress has not been made within 12 months of the date of enactment of this Act in ending the system of apartheid and establishing a nonracial democracy.

(b) The President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate within twelve months of the date of enactment of this Act, and every twelve months thereafter, a report on the extent to which significant progress has been made toward ending the system of apartheid, including—

(1) an assessment of the extent to which the Government of South Africa has taken the steps set forth in section 101(b) of this Act;

(2) an analysis of any other actions taken by the Government of South Africa in ending the system of apartheid and moving toward a nonracial democracy; and

(3) the progress, or lack of progress, made in reaching a negotiated settlement to the conflict in South Africa.

(c) If the President determines that significant progress has not been made by the Government of South Africa in ending the system of apartheid and establishing a nonracial democracy, the President shall include in the report required by subsection a recommendation on which of the following additional measures should be imposed:

(1) a denial of most-favored-nation status to South Africa;

(2) a prohibition on the importation of coal;

(3) a prohibition on deposits held in United States banks by South African nationals (other than deposits covered by section 310);

(4) coordinated efforts by the industrialized nations to lower the price of gold;

(5) a prohibition on the importation into the United States of uranium ore or uranium oxide from South Africa and Namibia;

(6) coordinated efforts by the industrialized nations and others to curtail or terminate telecommunications, postal, and telegraph services with South Africa;

(7) a prohibition on United States investment in South Africa; or

(8) other economic or political measures.

(d) A joint resolution which would enact part or all of the measures recommended by the President pursuant to subsection (c)

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shall be considered in accordance with the provisions of section 602 of this Act.

#### STUDY OF HEALTH CONDITIONS IN THE "HOMELANDS" AREAS OF SOUTH AFRICA

SEC. 502. The Secretary of State shall conduct a study to examine the state of health conditions and to determine the extent of starvation and malnutrition now prevalent in the "homelands" areas of South Africa and shall, not later than December 1, 1986, prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the results of such study.

#### REPORT ON SOUTH AFRICAN IMPORTS

SEC. 503. (a) Not later than 90 days after the date of enactment of this Act, the President shall submit to the Congress a report on the extent to which the United States is dependent on the importation from South Africa of—

- (1) chromium,
- (2) cobalt,
- (3) manganese,
- (4) platinum group metals,
- (5) ferroalloys, and
- (6) other strategic and critical materials (within the meaning of the Strategic and Critical Materials Stock Piling Act).

(b) The President shall develop a program which reduces the dependence, if any, of the United States on the importation from South Africa of the materials identified in the report submitted under subsection (a).

#### STUDY AND REPORT ON THE ECONOMY OF SOUTHERN AFRICA

SEC. 504. (a) The President shall conduct a study on the role of American assistance in southern Africa to determine what needs to be done, and what can be done to expand the trade, private investment, and transport prospects of southern Africa's landlocked nations.

(b) Not later than 180 days after the date of enactment of this Act, the President shall prepare and transmit to the chairman of the Committee on Foreign Relations of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study conducted under subsection (a).

#### REPORT ON RELATIONS BETWEEN OTHER INDUSTRIALIZED DEMOCRACIES AND SOUTH AFRICA

SEC. 505. (a) Not later than 180 days after the date of enactment of this Act, the President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing a detailed assessment of the economic and other relationships of other industrialized democracies with South Africa. Such report shall be transmitted without regard to whether or not the President successfully concluded an international agreement under title IV.

(b) For the purposes of this section, the phrase "economic and other relationships" includes those matters covered by sections 201, 202, 204, 205, 206, 207, 301, 302, 303, 304, 305, 306, 307, and 308 of this Act.

#### TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

##### REGULATORY AUTHORITY

SEC. 601. The President shall issue such rules, regulations, licenses, and orders as are necessary to carry out the provisions of this Act, including taking such steps as may be necessary to continue in effect the measures imposed by Executive Order 12532 of September 9, 1985 and any rule, regulation, license, or order issued thereunder.

##### CONGRESSIONAL PRIORITY PROCEDURES

SEC. 602. (a)(1) The provisions of this subsection apply to the consideration in the House of Representatives of a joint resolution under sections 311(b), 401(d), and 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Affairs of the House of Representatives.

(3)(A) At any time after the joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(5) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(b)(1) The provisions of this subsection apply to the consideration in the Senate of a joint resolution under section 311(b), 401(d), or 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Relations of the Senate.

(3) A joint resolution described in this section shall be considered in the Senate in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(A) references in such paragraphs to the Committee on Appropriations of the Senate shall be deemed to be references to the Committee on Foreign Relations of the Senate; and

(B) amendments to the joint resolution are in order.

(c) For purposes of this subsection, the term "joint resolution" means only—

(A) in the case of section 311(b), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the report described in section 311(b) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on

the report of the President containing the determination required by section 311(b) of the Comprehensive Anti-Apartheid Act of 1986, disapproves of such determination.", with the date of the receipt of the report inserted in the blank;

(B) in the case of section 401(d)(3), a joint resolution which is introduced in a House of

Congress within 3 legislative days after the Congress receives the document described in section 401(d)(2) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on

the text of the international agreement described in section 401(d)(3) of the Comprehensive Anti-Apartheid Act of 1986, disapproves of such agreement.", with the date of the receipt of the text of the agreement inserted in the blank; and

(C) in the case of section 501(d), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the determination of the President pursuant to section 501(c) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on a determination of the President under section 501(c) of the Comprehensive Anti-Apartheid Act of 1986, approves the President's determination.", with the date of the receipt of the determination inserted in the blank.

(d) This section is enacted—

(1) as an exercise of the rulemaking powers of the House of Representatives and Senate, and as such it is deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

##### ENFORCEMENT AND PENALTIES

SEC. 603. (a)(1) The President with respect to his authorities under section 601 shall take the necessary steps to ensure compliance with the provisions of this Act and any regulations, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with this Act and such regulations, licenses, and orders.

(2) In ensuring such compliance, the President may—

(A) require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction described in this Act either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which a foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this Act; and

(B) conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(b) Except as provided in subsection (d)—

- (1) any person that violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act shall be subject to a civil penalty of \$50,000;

- (2) any person, other than an individual, that willfully violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act shall be fined not more than \$1,000,000;

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(3) any individual who violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than \$50,000, or imprisoned not more than 10 years, or both; and

(4) any individual who violates section 301(a) or any regulations issued to carry out that section shall, instead of the penalty set forth in paragraph (2), be fined not more than 5 times the value the kruggerands or gold coins involved.

(c)(1) Whenever a person commits a violation under subsection (b)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who knowingly and willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who knowingly and willfully carried out such act or practice,

shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(2) Paragraph (1) shall not apply in the case of a violation by an individual of section 301(a) of this Act or of any regulation issued to carry out that section.

(3) A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d)(1) Any person who violates any regulation issued under section 208(d) or who, in a registration statement or report required by the Secretary, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall be subject to a civil penalty of not more than \$10,000 imposed by the Secretary. The provisions of subsections (d), (e), and (f) of section 11 of the Export Administration Act of 1979 shall apply with respect to any such civil penalty.

(2) Any person who commits a willful violation under paragraph (1) shall upon conviction be fined not more than \$1,000,000 or imprisoned not more than 2 years, or both.

(3) Nothing in this section may be construed to authorize the imposition of any penalty for failure to implement the Code of Conduct.

## APPLICABILITY TO EVASIONS OF ACT

SEC. 604. This Act and the regulations issued to carry out this Act shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade this Act or such regulations.

## CONSTRUCTION OF ACT

SEC. 605. Nothing in this Act shall be construed as constituting any recognition by the United States of the homelands referred to in this Act.

## SUMMARY

Title I sets out U.S. policy toward the Government of South Africa, South African blacks and the frontline states in southern Africa. Titles II and III codify the President's Executive Order of last September. Title II contains express statutory authorization for scholarships and other programs which help South African blacks. Title II also requires U.S. companies in South Africa to adhere to the Sullivan Principles.

In addition to the five sanctions imposed under last year's Executive Order, six new sanctions are contained in this bill:

(1) a ban on new investments in U.S. companies not following the Sullivan Principles;

(2) an embargo on imports from corporations owned or controlled by the South African government;

(3) a denial of landing rights to airlines owned by South African nationals;

(4) authority for the President to deny visas to South African government officials

(5) express authorization for the President to sell U.S. gold to lower the world market price; and

(6) a ban on the use of U.S. banks by the South African government or corporations owned by the South African government.

There are four conditions that must be satisfied for sanctions to be removed: Nelson Mandela must be freed, the state of emergency lifted, political parties unbanned, and the Group Areas Act repealed. If any two of these four steps are taken, the President may, subject to Congressional disapproval, modify the sanctions.

Title IV grants the President additional authority to negotiate international agreements with the other industrial democracies that would impose sanctions on South Africa. The President is also given the power to modify U.S. sanctions to reflect any international agreement. Any foreign company taking advantage of U.S. sanctions to supplant U.S. businesses in South Africa is made liable for damages in U.S. courts. Such action is also made an unfair trade practice under section 301 of the Trade Act of 1974, giving the President the power to retaliate.

Title V provides that if progress is not made within one year in dismantling apartheid and establishing a multi-racial democracy, the President is to recommend additional sanctions. Expedited procedures apply to Congressional action to approve these additional sanctions. Individuals violating any provision of the Act are subject to a fine of up to \$50,000 and a prison term of not more than 5 years. Corporations may be fined up to \$1,000,000 for violations.

## SECTION-BY-SECTION ANALYSIS

## TITLE I—POLICY OF THE UNITED STATES WITH RESPECT TO ENDING APARTHEID

## Sec. 101 Policy toward the Government of South Africa

U.S. policy is designed to bring reforms leading to the establishment of a non-racial democracy. This is to be furthered by encouraging the Government of South Africa to take a number of specific steps, including a restoration of equal justice under law, release of all political prisoners, and negotiations with representatives of all citizens in South Africa. Future U.S. policy will be based on whether the South African Government takes these steps.

## Sec. 102 Policy toward the victims of apartheid

U.S. policy is to bring about the removal of the system of apartheid. In anticipation of its ultimate demise, U.S. policy is to assist the victims in preparing themselves to take their rightful place in a post-apartheid society in South Africa. The U.S. will also provide assistance to the victims of apartheid to help them challenge the system as well as for humanitarian purposes.

## Sec. 103 Policy toward other countries in Southern Africa

U.S. policy is aimed at encouraging democracy, respect for human rights, economic development and political independence. The United States will work toward this goal by promoting independence for Namibia, supporting the removal of all foreign troops from the region and other steps, including the provision of U.S. economic assistance in accord with U.S. resources.

## Sec. 104 Policy toward a negotiated settlement

U.S. policy is to encourage a negotiated settlement. To this end, political parties

should be unbanned and political expression permitted. All parties should agree to suspend violence. The United States will work with its allies to develop a plan for assistance to South Africa if the government will end apartheid and negotiate with all parties.

## Sec. 105 Policy toward international cooperation on measures to end apartheid

Congress recognizes that international cooperation is crucial to developing effective measures to help end apartheid. The President is therefore urged to seek such cooperation.

## TITLE II—MEASURES TO ASSIST VICTIMS OF APARTHEID

## Sec. 201 Scholarships for black South Africans

Funds are earmarked out of the Education and Human Resources account of the Foreign Assistance Act to finance education, training and scholarships for black South Africans attending schools in South Africa. One third of the earmarked funds are set aside for black teachers. Half the funds provided must go for programs whose sponsors support an end to apartheid. The other half is to be used for scholarships awarded by panels of educators. \$8,000,000 is earmarked for fiscal year 1987, \$11,000,000 for fiscal year 1988 and \$15,000,000 for each succeeding fiscal year.

## Sec. 202 Human rights fund

Of the \$3,000,000 provided in the Human Rights account of the Foreign Assistance Act for programs which encourage adherence to civil and political rights, \$1,500,000 is to be used for grants to nongovernmental organizations in South Africa which promote human rights and an end to apartheid. Of this \$1,500,000, \$350,000 is to be used for direct legal assistance and other activities which will help political detainees, political prisoners and their families.

## Sec. 203 Expanding participation in the South African economy

All U.S. governmental agencies operating in South Africa are, to the maximum extent possible, to procure 50% or more of the goods and services they need from black or other nonwhite owned businesses in South Africa. Competition in contracting laws are waived.

## Sec. 204 Export-Import Bank of the United States

The Ex-Im Bank is required to take active steps to encourage the use of its facilities by black or other nonwhite owned businesses in South Africa.

## Sec. 205 Labor practices of the United States Government in South Africa

All U.S. government agencies employing South Africans are required to follow a Code of Conduct based on the Sullivan Principles. The Code is set out in section 208.

## Sec. 206 Protection of black South Africans employed by the United States

The Secretary of State is authorized to lease or purchase housing and make it available at reasonable rents to black South African employees of the United States government. The housing must be in areas open to occupancy by other employees of the United States government. \$10,000,000 is authorized for fiscal year 1987 for this program.

## Sec. 207 Employment practices of United States Nations in South Africa

All U.S. companies employing 25 or more persons in South Africa must take steps to insure that the Code of Conduct is implemented. U.S. assistance in export marketing is denied to any company not implementing the Code.



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*Sec. 208. Code of conduct*

This section lists seven principles—racial desegregation, equal employment opportunities, equal pay, fair minimum wage, affirmative action in promotion, recognition of right to join labor unions and concern for employees' life outside work—that are the basis for the Sullivan Principles. These are the principles U.S. companies (sec. 207) and the U.S. government (sec. 205) must follow. U.S. companies are also called upon to work for the equal treatment of blacks by all employers and to support an end to apartheid. Subsection (c) gives the President the power to issue advisory opinions to U.S. firms as to whether they are required to adhere to the Code of Conduct. Those who are can be required to register with the U.S. government. The President may contract with private groups, such as Arthur D. Little and Company, to assist him in determining whether companies are in compliance with the Code of Conduct.

*Sec. 209. Prohibition on assistance*

No assistance under this Act may be provided to any group which maintains within its ranks an individual who has engaged in gross violations of human rights. This would include torture or other cruel or inhumane acts.

*Sec. 210 Prohibition on new investments in certain firms*

U.S. citizens and companies may not make any new investment in any U.S. firm which: (1) employs 25 or more individuals in South Africa and (2) is not implementing the Code of Conduct.

## TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID

*Sec. 301 Prohibition on the importation of Krugerrands*

Imports into the United States of any South African gold coin, including the Krugerrand, are banned.

*Sec. 302 Prohibition on the importation of military equipment*

Imports into the United States of arms, ammunition, military vehicles and the manufacturing data for these items are banned.

*Sec. 303 Prohibition on the importation of products from parastatal organizations*

No article produced by a corporation owned or controlled by the South African Government can be imported into the United States. An exception is provided for strategic minerals for which substitutes or secure domestic supplies are unavailable.

*Sec. 304 Prohibition on computer exports to South Africa*

Computers, computer software and goods and technology which service computers may not be exported to the South African military, police, prison system, ARMSCOR, apartheid administering agencies or any entity of a homelands government performing the same functions as the proscribed organizations. Computers may be exported to South African government entities if a system of end use verification is in effect to insure computers are not diverted to a proscribed entity.

*Sec. 305 Prohibition on loans to the Government of South Africa*

U.S. nationals may not loan, or extend credit to, the Government of South Africa. U.S. banks could therefore not extend trade credit to any purchasing organization associated with the government of South Africa. An exception to the ban on loans and credit extension is provided for educational, housing, and humanitarian purposes.

*Sec. 306 Prohibition on air transportation with South Africa*

The Secretary of State is to terminate the bilateral air services agreement now in effect with South Africa. Article XI of that agreement provides for a year notice of termination; breach of the agreement is subject to international arbitration. Once the agreement is terminated, the Secretary of Transportation is to ban air transportation with the United States by air carriers owned by the Government of South Africa or South African nationals. An exception for emergency landings is permitted.

*Sec. 307 Prohibitions on nuclear trade with South Africa*

Exports of material or technical data to be used in connection with any nuclear power plant or other nuclear facility are banned. This ban is lifted if the President certifies that South Africa has become a party to the Non-Proliferation Treaty or is maintaining International Atomic Energy Agency safeguards on all nuclear activities. Nuclear materials subject to general licenses by the Nuclear Regulatory Commission or the Department of Commerce are exempt from the ban. This covers items such as pacemakers, which contain small amounts of plutonium, and other health and safety-related items.

*Sec. 308 Restrictions on issuance of visas to South African nationals*

The President is authorized to establish a separate visa category for South African officials and anyone performing services for the South African government. Visas for these individuals may be denied at the discretion of the Secretary of State. This is designed to allow the Secretary to retaliate when American journalists, clerics and others are denied South African visas. It will also permit the Secretary to exclude individuals he believes may be trying to gather information to circumvent the arms embargo.

*Sec. 309 Sales of gold stocks*

The President is expressly authorized to sell any U.S. gold stocks on the open market or engage in any transaction involving gold for the purpose of affecting the world price of gold.

*Sec. 310 Government of South Africa bank accounts*

The Government of South Africa, and all entities owned or controlled by it, are permitted to have bank accounts in the United States only for diplomatic and consular purposes.

*Sec. 311. Termination of certain provisions*

Subsection (a) provides that all sanctions imposed by the bill upon its enactment (those in Title III) as well as all sanctions imposed in the future (under Title V) are to be terminated if (1) Nelson Mandela is released; (2) the state of emergency is repealed and detainees held under that state of emergency are released; (3) political parties are unbanned; and (4) the Group Areas Act is repealed. The President may modify any of the sanctions if two of these four steps have been taken and substantial progress has been made towards ending apartheid. This modification is subject to a resolution of disapproval which would enjoy expedited treatment in both Houses.

## TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

*Sec. 401. Negotiating authority*

The President is given authority to negotiate international agreements incorporating sanctions on South Africa. He may modify U.S. sanctions to conform with the agreement. However, the agreement is subject to Congressional disapproval. In no event can

the net effect of any agreement, together with any modification of a U.S. sanction, be less than the net economic effect of U.S. sanctions standing by themselves.

*Sec. 402. Unfair trade practices*

This section makes it an unfair trade practice under section 301 of the 1974 Trade Act for any foreign firm to take commercial advantage of any sanction. In other words, it would be unfair for a foreign firm to begin selling computers to a South African government entity that had previously purchased computers from a U.S. firm but could no longer purchase these computers because of the U.S. export ban in section 304 of this act. Section 301 gives the President the discretion to retaliate against the products of those countries engaged in an unfair trade practice.

*Sec. 403. Private right of action*

U.S. firms may bring a private action for damages against any firm that takes commercial advantage of any sanction imposed by this Act. For example, if a U.S. company had been selling computers to an agency of the South African government and were prohibited by this Act from continuing to sell computers, it could bring an action for lost profits against any foreign firm which replaced it. The U.S. company is entitled to costs and attorney's fees if it prevails.

## TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA

*Sec. 501. Additional measures*

Every 12 months the President must report to Congress on the progress made in ending apartheid. If progress has not been made, he is to recommend additional economic or political sanctions. Expedited procedures are provided for Congressional consideration of these sanctions.

*Sec. 502. Study of health conditions in the homelands areas of South Africa*

The Secretary of State is to study and report to Congress on the state of health conditions in the homelands areas and whether, and to what extent, there is malnutrition or starvation occurring in these areas.

*Sec. 503. Report on South Africa imports*

The President is to report in 180 days on U.S. import dependence on South Africa chromium, cobalt, manganese, platinum, ferroalloys and other strategic and critical materials. The President is to prepare a plan to reduce U.S. dependence on imports of these minerals from South Africa.

*Sec. 504. Study and report on the economy of Southern Africa*

The President is to send a report to Congress on the role of U.S. assistance in southern Africa and what steps can be taken to expand the trade, private investment and transport network of landlocked countries in southern Africa.

*Sec. 505. Report on relations between other industrialized democracies and South Africa*

Within 180 days the President must report to Congress on the economic and political relationships between South Africa and the other industrialized democracies.

## TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

*Sec. 601. Regulatory authority*

The President is authorized to issue the necessary regulations, licenses and orders to carry out this Act.

*Sec. 602. Congressional priority procedures*

This section provides expedited procedures for the various Congressional resolu-

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tions of approval and disapproval provided for by this Act.

*Sec. 603. Enforcement and penalties*

The President is given the power to conduct investigations to insure compliance with this Act. Corporations violating the Act are subject to fines of up to \$1,000,000 for each violation. Individuals violating it can be fined up to \$50,000 or imprisoned for not more than 5 years or both. U.S. businesses in South Africa which refuse to report on their progress in complying with the Sullivan Principles are subject to a \$10,000 fine.●

By Mr. GORE:

S. 2702. A bill entitled the "Satellite Television Open Market Act of 1986"; to the Committee on Commerce, Science, and Transportation.

**SATELLITE TELEVISION OPEN MARKET ACT**

● Mr. GORE. Mr. President, today I am introducing new legislation which directly addresses the fundamental problem of satellite television scrambling.

The problem has become clear: By refusing to allow open, competitive marketing of their signals through third-party distributors, the monopoly programmers have shut down the free market, and driven a new, promising technology into the ground.

How was this allowed to happen? Plans by cable programmers and the networks to scramble their signals have had a clear and devastating effect—total chaos among home dishowners and the businesses that serve those customers. The ensuing confusion has threatened to derail a communications development that, for once, came first to rural Americans—and the resolution of the problem is not yet in sight.

It is clear that the Congress would prefer that the marketplace resolve problems such as the distribution of satellite television programming. However, the marketplace has not worked. Consider the distortions in the satellite television marketplace:

Advertiser-supported programmers who have no reason to scramble are being coerced by major cable corporations to scramble or else be thrown off those systems.

Expensive decoders are being forced onto dishowners even though no industry standards have been established.

At least one programmer is actively engaging in kickbacks of dishowners program fees to cable operators who provide absolutely no services to the dishowner.

And, most significantly, programmers who may have justifiable reasons to scramble are refusing to sell services at competitive terms to dishowners through third-party distributors.

Mr. President, it is time for the Congress to act. Last year I introduced, along with my colleague Senator COCHRAN, a bill to require the Federal Communications Commission to intervene with regulation as a last resort, if satellite television programmers were

found to be acting anticompetitively. I believed then, and still believe, that the FCC has a distinct role in this issue as the Federal Government's arbiter of national telecommunications policy.

And, any rules dealing with anticompetitive behavior must have teeth. It is not enough for us to urge programmers and cable interests to play fair. It is not enough to talk about the importance of this technology for those living outside urban centers if we fail to ensure that the home satellite dish will continue as an available telecommunications option for rural America.

Satellite dishowners are willing to pay fair prices and agree to competitive, marketplace terms for scrambled programming. But few of the companies who have the monopoly on premium satellite television programs have agreed to sell their services at fair prices and through a competitive marketplace.

Instead, these programmers flatly state that they will charge dishowners prices that are two, three, four times greater than local cable customers pay for the same services. The implication of these predatory rates—if not the stated motive—is that dishowners must pay higher prices than cable customers to discourage the use of home dishes.

That motive—to shut down dish sales in cable-served areas—is reason enough to warrant serious action by the courts, if not the Congress. Yet, the vast majority of home dishowners do not live within cable-wired areas. They live in rural areas that cable refuses to serve, areas where television information and entertainment programming is vital. In these areas, the anticompetitive behavior of the programmers and cable operators should be branded illegal, and halted.

It is not surprising that these marketplace distortions have occurred. The concentration among major programming sources is alarming. For instance, two companies—HBO/Cinemax and Showtime/Movie Channel—control practically 100 percent of the premium cable movie services. And a large share of the other premium programs, such as MTV, Nickelodeon, and others, are controlled by the Viacom Corp., the same company that owns Showtime. And who owns HBO? Time, Inc.

Mr. President, Time, Inc., and Viacom are not simply huge holding companies involved in the development and sale of satellite television programming. These companies also happen to be two of the biggest multi-system cable operators.

And who is the biggest of these cable company chains? Tele-Communications, Inc., whose top official has been publicly quoted as threatening any programmer who does not scramble that his services will be dropped from TCI systems. When TCI announced that it would package programming for dishowners living within its fran-

chise areas, the plan was met with understandable skepticism about TCI's motives.

I am pleased that the Justice Department has an ongoing investigation into the efforts of some of the monopoly interests to shut down the Earth station industry. But that investigation has been underway for months, and a Justice Department conclusion that corrects the marketplace distortions is unlikely for many more months.

This week the FCC will announce a notice of inquiry to look into the satellite television programming industry. That is heartening, but, after all, it is only a general inquiry. The FCC has been keenly aware of the interest and controversy in this issue among Members of Congress and the telecommunications community for several years. Yet, it has waited, and waited, until the home Earth station industry is on the verge of extinction to announce even a modest general inquiry.

Mr. President, it does not take a year-long general study by Justice Department or the FCC to realize that the distortions in this marketplace are severe and need immediate remedy. We simply cannot wait forever for those agencies to study the problem to death.

Major cable officials and programming executives have told me that, if there are violations of antitrust law, the courts are the places to resolve the problem. But let's face facts: The antitrust laws are unclear at best on the issue of satellite television market. Invariably, when the law is vague, the entrenched powers—in this case the programmers and huge cable systems—have the resources to stall an upstart competitor right out of court, and out of business.

The bill I am introducing today will specifically cite anticompetitive behavior in the marketing of satellite television programming as a violation of communications law, and allow citizens to bring immediate suit in Federal court against programmers who refuse to make programming available at fair terms.

The bill will require programmers to establish reasonable standards for the third-party distribution of their services, and require them to allow independent distributors to market those services. This action will correct the marketplace distortions that now shut out independent distribution and prevent competition.

Open market competition is the only way to solve this problem, and I am confident that this bill will make that competition possible.

Mr. President, I ask unanimous consent that the bill and a summary of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

file South Africa

Continuation of Senate Proceedings of August 5, 1986, Issue No. 105; and Proceedings of August 6, 1986, Issue No. 106.

United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 99<sup>th</sup> CONGRESS, SECOND SESSION

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WASHINGTON, TUESDAY, AUGUST 5, 1986

No. 105

## Senate

(Legislative day of Monday, August 4, 1986)

### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1987

(Continued)

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

#### SDI, THE ABM TREATY, AND THE NATIONAL INTEREST

Mr. BYRD. Mr. President, I voted against the amendments providing 3 percent real growth and 15 percent real growth for the strategic defense initiative (SDI), compared with SDI's fiscal year 1986 budget, because I believe somewhat more real growth is reasonable for ballistic missile defense research in fiscal year 1987.

The strategic defense initiative is perhaps the most controversial defense research program in the fiscal year 1987 budget request.

Several questions have been raised by proponents of this amendment about SDI's impacts on other funding priorities in the defense budget, especially about adequate spending for conventional forces, on the strategic balance, and on arms control. I share the concerns expressed by many in this body about these matters.

However, the Armed Services Committee already has acted to significantly reduce the SDI budget below the President's exorbitant budget request of 73 percent real growth—as well as to reshape the program and reorient some of its funds to research to improve our conventional forces capabilities.

Many of us have legitimate disagreements with each other, and with the administration, about the SDI Program and about what constitutes a

reasonable funding level from military, fiscal, and arms control perspectives.

For example, while both the 3-percent and the 15-percent real growth amendments would permit some growth in the SDI Program in fiscal year 1987, no less a national security expert than Dr. Harold Brown, the former Secretary of Defense, has suggested that real growth even beyond that provided by these amendments is not unreasonable for proceeding at a measured technological pace with ballistic missile defense research.

I believe a higher funding level is needed than either amendments provided, and so I voted against both.

As another example of disagreements with the administration about this program, several of us now are engaged in a very serious discussion with the administration about increasing the Senate's access to the negotiating record for the Anti-Ballistic Missile [ABM] Treaty. It is appropriate that I mention this discussion in reference to the subject matter of these SDI amendments. We are trying to ascertain whether the administration's recent reinterpretation of that treaty is valid, as many doubt, and what the relationship of that new theory is to the pace, scope, and funding of the SDI Program.

So far, the administration's refusal to provide the Senate with increased access, as well as the manner in which the executive branch developed and propounded its treaty reinterpretation, threatens the constitutional role of the Senate in treaty making.

I believe that role must be protected, and asserted, especially as it relates to the ABM Treaty and SDI. Thus, I have indicated that my final decisions on SDI funding in fiscal year 1987, will, in no small part, reflect the extent to which the executive branch recognizes and respects the Senate's co-equality in treaty matters.

#### AMENDMENT NO. 2414

(Purpose: To impose additional economic sanctions against South Africa)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. KENNEDY, and Mr. WEICKER, proposes an amendment numbered 2414.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new provisions:

#### DIVISION E—SOUTH AFRICA

##### SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Anti-Apartheid Act of 1986".

##### TABLE OF CONTENTS

SEC. 2. The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Purpose.

#### TITLE I—POLICY OF THE UNITED STATES WITH RESPECT TO ENDING APARTHEID

- Sec. 101. Policy toward the Government of South Africa.
- Sec. 102. Policy toward the victims of apartheid.
- Sec. 103. Policy toward other countries in Southern Africa.
- Sec. 104. Policy toward "frontline" states.
- Sec. 105. Policy toward a negotiated settlement.
- Sec. 106. Policy toward international cooperation on measures to end apartheid.
- Sec. 107. Policy toward "necklacing".

#### TITLE II—MEASURES TO ASSIST VICTIMS OF APARTHEID

- Sec. 201. Scholarships for the victims of apartheid.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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- Sec. 202. Human rights fund.  
 Sec. 203. Expanding participation in the South African economy.  
 Sec. 204. Export-Import Bank of the United States.  
 Sec. 205. Labor practices of the United States Government in South Africa.  
 Sec. 206. Welfare and protection of the victims of apartheid employed by the United States.  
 Sec. 207. Employment practices of United States nationals in South Africa.  
 Sec. 208. Code of Conduct.  
 Sec. 209. Prohibition on assistance.  
 Sec. 210. Use of the African Emergency Reserve.  
 Sec. 211. Assistance for Beira Corridor Project.  
 Sec. 212. Assistance to South African refugees.

## TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID

- Sec. 301. Prohibition on the importation of krugerrands.  
 Sec. 302. Prohibition on the importation of military articles.  
 Sec. 303. Prohibition of the importation of products from parastatal organizations.  
 Sec. 304. Prohibition on computer exports to South Africa.  
 Sec. 304a. Prohibition on the sale or export of items on the munitions list.  
 Sec. 305. Prohibition on loans to the Government of South Africa.  
 Sec. 306. Prohibition on air transportation with South Africa.  
 Sec. 307. Prohibitions on nuclear trade with South Africa.  
 Sec. 307a. Prohibitions on cooperation with the Armed Forces of South Africa.  
 Sec. 307b. Prohibitions on U.S. Government activities.  
 Sec. 308. Restrictions on issuance of visas to South African nationals.  
 Sec. 309. Sales of gold stocks.  
 Sec. 310. Government of South Africa bank accounts.  
 Sec. 311. Prohibition on importation of uranium and coal from South Africa.  
 Sec. 312. Prohibition on new investment in South Africa.  
 Sec. 313. Termination of certain provisions.  
 Sec. 314. Authority to permit States and political subdivisions of States to enforce State or local anti-apartheid laws.

## TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

- Sec. 401. Negotiating authority.  
 Sec. 402. Unfair trade practices.  
 Sec. 403. Private right of action.

## TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA

- Sec. 501. Additional measures.  
 Sec. 502. Study of health conditions in the "homelands" areas of South Africa.  
 Sec. 503. Reports on South African imports.  
 Sec. 504. Study and report on the economy of southern Africa.  
 Sec. 505. Report on relations between other industrialized democracies and South Africa.  
 Sec. 506. Study and report on deposit accounts of South African nationals in United States banks.  
 Sec. 507. Study and report on the violation of the international embargo on sale and export of military articles to South Africa.

## TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

- Sec. 601. Regulatory authority.  
 Sec. 602. Congressional priority procedures.  
 Sec. 603. Enforcement and penalties.  
 Sec. 604. Applicability to evasions of Act.  
 Sec. 605. Construction of Act.

## DEFINITIONS

SEC. 3. As used in this Act—  
 (1) the term "Code of Conduct" refers to the principles set forth in section 208(a);  
 (2) the term "controlled South African entity" means—

(A) a corporation, partnership, or other business association or entity organized in South Africa and owned or controlled, directly or indirectly, by a national of the United States; or  
 (B) a branch, office, agency, or sole proprietorship in South Africa of a national of the United States;

(3) the term "loan"—  
 (A) means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit, including—

(i) overdrafts,  
 (ii) currency swaps,  
 (iii) the purchase of debt or equity securities issued by the Government of South Africa or a South African entity on or after the date of enactment of this Act,  
 (iv) the purchase of a loan made by another person,  
 (v) the sale of financial assets subject to an agreement to repurchase, and  
 (vi) a renewal or refinancing whereby funds or credits are transferred or extended to the Government of South Africa or a South African entity, and  
 (B) does not include—

(i) normal short-term trade financing, as by letters of credit or similar trade credits;  
 (ii) sales on open account in cases where such sales are normal business practice; or  
 (iii) rescheduling of existing loans, if no new funds or credits are thereby extended to a South African entity or the Government of South Africa;  
 (4) the term "new investment"—  
 (A) means—  
 (i) a commitment or contribution of funds or other assets, and  
 (ii) a loan or other extension of credit, and  
 (B) does not include—  
 (i) the reinvestment of profits generated by a controlled South African entity into that same controlled South African entity or the investment of such profits in a South African entity;  
 (ii) contributions of money or other assets where such contributions are necessary to enable a controlled South African entity to operate in an economically sound manner, without expanding its operations; or  
 (iii) the ownership or control of a share or interest in a South African entity or a controlled South African entity of a debt or equity security issued by the Government of South Africa or a South African entity before the date of enactment of this Act, or the transfer or acquisition of such a share, interest, or debt or equity security, if any such transfer or acquisition does not result in a payment, contribution of funds or assets, or credit to a South African entity, a controlled South African entity, or the Government of South Africa;

(5) the term "national of the United States" means—  
 (A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States or is an alien lawfully admitted for permanent residence in the United States, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); or  
 (B) a corporation, partnership, or other business association which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia;  
 (6) the term "South Africa" refers to the territory that constituted the Republic of South Africa on May 31, 1961;  
 (7) the term "South African entity" means—  
 (A) a corporation, partnership, or other business association or entity organized in South Africa; or  
 (B) a branch, office, agency, or sole proprietorship in South Africa of a person that resides or is organized outside South Africa; and  
 (8) the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

## PURPOSE

SEC. 4. The purpose of this Act is to set forth a comprehensive and complete framework to guide the efforts of the United States in helping to bring an end to apartheid in South Africa and lead to the establishment of a nonracial, democratic form of government. This Act sets out United States policy toward the Government of South Africa, the victims of apartheid, and the other states in southern Africa. It also provides the President with additional authority to work with the other industrial democracies to help end apartheid and establish democracy in South Africa.

## TITLE I—POLICY OF THE UNITED STATES WITH RESPECT TO ENDING APARTHEID

## POLICY TOWARD THE GOVERNMENT OF SOUTH AFRICA

SEC. 101. (a) United States policy toward the Government of South Africa shall be designed to bring about reforms in that system of government that will lead to the establishment of a nonracial democracy.

(b) The United States will work toward this goal by encouraging the Government of South Africa to—

(1) suspend the present state of emergency and respect the principal of equal justice under law for citizens of all races;

(2) release Nelson Mandela, Govan Mbeki, Walter Sisulu, black trade union leaders, and all political prisoners;

(3) permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process;

(4) establish a timetable for the elimination of apartheid laws;

(5) negotiate with representatives of all racial groups in South Africa the future political system in South Africa; and

(6) end military and paramilitary activities aimed at neighboring states.

(c) The United States will encourage the actions set forth in subsection (b) through economic, political, and diplomatic measures as set forth in this Act. The United States will adjust its actions toward the Government of South Africa to reflect the progress or lack of progress made by the Government of South Africa in meeting the goal set forth in subsection (a).

## POLICY TOWARD THE VICTIMS OF APARTHEID

SEC. 102. (a) The United States policy toward the victims of apartheid is to use economic, political, diplomatic, and other effective means to achieve the removal of the root cause of their victimization, which is the apartheid system. In anticipation of the removal of the system of apartheid and as a

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further means of challenging that system, it is the policy of the United States to assist these victims of apartheid as individuals and through organizations to overcome the handicaps imposed on them by the system of apartheid and to prepare themselves for their rightful roles as full participants in the political, social, economic, and intellectual life of their country in the post-apartheid South Africa envisioned by this Act.

(b) The United States will work toward the purposes of subsection (a) by—

(1) providing assistance to South African victims of apartheid without discrimination by race, color, sex, religious belief, or political orientation, to take advantage of educational opportunities in South Africa and in the United States to prepare for leadership positions in a post-apartheid South Africa;

(2) assisting victims of apartheid;

(3) aiding individuals or groups in South Africa whose goals are to aid victims of apartheid or foster nonviolent legal or political challenges to the apartheid laws;

(4) furnishing direct financial assistance to those whose nonviolent activities had led to their arrest or detention by the South African authorities;

(5) intervening at the highest political levels in South Africa to express the strong desire of the United States to see the development in South Africa of a nonracial democratic society; and

(6) supporting the rights of the victims of apartheid through political, economic, or other sanctions in the event the Government of South Africa government fails to make progress toward the removal of the apartheid laws and the establishment of such democracy.

#### POLICY TOWARD OTHER COUNTRIES IN SOUTHERN AFRICA

SEC. 103. (a) The United States policy toward the other countries in the Southern African region shall be designed to encourage democratic forms of government, full respect for human rights, political independence, and economic development.

(b) The United States will work toward the purposes of subsection (a) by—

(1) helping to secure the independence of Namibia and the establishment of Namibia on a nonracial democracy in accordance with appropriate United Nations Security Council resolutions;

(2) supporting the removal of all foreign military forces from the region;

(3) encouraging the nations of the region to settle differences through peaceful means;

(4) promoting economic development through bilateral and multilateral economic assistance targeted at increasing opportunities in the productive sectors of national economies, with a particular emphasis on increasing opportunities for nongovernmental economic activities;

(5) encouraging, and when necessary, strongly demanding, that all countries of the region respect the human rights of their citizens and noncitizens residing in the country, and especially the release of persons persecuted for their political beliefs or detained without trial; and

(6) providing appropriate assistance, within the limitations of American responsibilities at home and in other regions, to assist regional economic cooperation and the development of interregional transportation and other capital facilities necessary for economic growth.

#### POLICY TOWARD "FRONTLINE" STATES

SEC. 104. It is the sense of the Congress that the President should discuss with the governments of the African "frontline" states the effects on them of disruptions in transportation or other economic links

through South Africa and of means of reducing those effects.

#### POLICY TOWARD A NEGOTIATED SETTLEMENT

SEC. 105. (a)(1) United States policy will seek to promote negotiations among representatives of all citizens of South Africa to determine a future political system that would permit all citizens to be full participants in the governance of their country. The United States recognizes that important and legitimate political parties in South Africa include several organizations that have been banned and will work for the unbanning of such organizations in order to permit legitimate political viewpoints to be represented at such negotiations.

(2) To this end, it is the sense of the Congress that the President, the Secretary of State, or other appropriate high-level United States officials should meet with the leaders of opposition organizations of South Africa, particularly but not limited to those organizations representing the black majority. Furthermore, the President, in concert with the major allies of the United States and other interested parties, should seek to bring together opposition political leaders with leaders of the Government of South Africa for the purpose of negotiations to achieve a transition to a post-apartheid democracy envisioned in this Act.

(b) The United States will encourage the Government of South Africa and all participants to the negotiations to respect the right of all South Africans to form political parties, express political opinions, and otherwise participate in the political process without fear of retribution by either governmental or nongovernmental organizations. It is the sense of the Congress that a suspension of violence is an essential precondition for the holding of negotiations. The United States calls upon all parties to the conflict to agree to a suspension of violence.

(c) The United States will work toward the achievement of agreement to suspend violence and begin negotiations through coordinated actions with the major Western allies and with the governments of the countries in the region.

(d) It is the sense of the Congress that the achievement of an agreement for negotiations could be promoted if the United States and its major allies, such as Great Britain, Canada, France, Italy, Japan, and West Germany, would hold a meeting to develop a four-point plan to discuss with the Government of South Africa a proposal for stages of multilateral assistance to South Africa in return for the Government of South Africa implementing—

(1) an end to the state of emergency and the release of the political prisoners, including Nelson Mandela;

(2) the unbanning of the African National Congress, the Pan African Congress, the Black Consciousness Movement, and all other groups willing to participate in negotiations and a democratic process;

(3) a revocation of the Group Areas Act and the Population Registration Act and the granting of universal citizenship to all South Africans, including homeland residents; and

(4) the use of the international offices of a third party as an intermediary to bring about negotiations with the object of establishment of power-sharing with the black majority.

#### POLICY TOWARD INTERNATIONAL COOPERATION ON MEASURES TO END APARTHEID

SEC. 106. (a) The Congress finds that—

(1) international cooperation is a prerequisite to an effective anti-apartheid policy; and

(2) the situation in South Africa constitutes an emergency in international rela-

tions and that action is necessary for the protection of the essential security interests of the United States.

(b) Accordingly, the Congress urges the President to seek such cooperation among all individuals, groups, and nations.

#### POLICY TOWARD NECKLACING

SEC. 107. It is the sense of the Congress that the African National Congress should strongly condemn and take effective actions against the execution by fire, commonly known as "necklacing", of any person in any country.

#### TITLE II—MEASURES TO ASSIST VICTIMS OF APARTHEID

##### SCHOLARSHIPS FOR THE VICTIMS OF APARTHEID

SEC. 201. Section 105(b) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Of the assistance provided under this section by the Administrator of the agency primarily responsible for administering this part of this Act—

"(i) for the fiscal year 1987, \$8,000,000;

"(ii) for the fiscal year 1988, \$11,000,000;

and

"(iii) for the fiscal year 1989 and each fiscal year thereafter, \$15,000,000,

shall be used to finance education, training, and scholarships for the victims of apartheid who are attending universities, colleges, and secondary schools in South Africa and who are selected in accordance with subparagraph (B). Of the funds available under the preceding sentence to carry out this subparagraph, not less than one-third shall be available only for assistance to full-time teachers or other educational professionals pursuing studies toward the improvement of their professional credentials.

"(B) Of the funds provided in subparagraph (A) for each fiscal year, 50 percent shall be available for educational assistance for the victims of apartheid in accordance with section 802(c) of the International Security and Development Cooperation Act of 1985. The remainder of the funds in each fiscal year which are not made available under the preceding sentence shall be available to finance scholarships for individuals selected by a nationwide panel or by regional panels composed solely of members of the teaching profession appointed by the United States chief of diplomatic mission to South Africa. No such individual may be selected through any contract entered into with the agency primarily responsible for administering this part of this Act."

##### HUMAN RIGHTS FUND

SEC. 202. (a) Section 116(e)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "1984 and" and inserting in lieu thereof "1984,"; and

(2) by inserting after "1985" a comma and the following: "and \$1,500,000 for the fiscal year 1986 and for each fiscal year thereafter".

(b) Section 116 of such Act is amended by adding at the end thereof the following new subsection:

"(f) Of the funds made available to carry out subsection (e)(2)(A) for each fiscal year, \$350,000 shall be used for direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protesters and prisoners, and for support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies such as—

"(1) removal of black populations from certain geographic areas on account of race or ethnic origin,



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"(2) denationalization of blacks, including any distinctions between the South African citizenships of blacks and whites,

"(3) residence restrictions based on race or ethnic origin,

"(4) restrictions on the rights of blacks to seek employment in South Africa and live wherever they find employment in South Africa, and

"(5) restrictions which make it impossible for black employees and their families to be housed in family accommodations near their place of employment."

## EXPANDING PARTICIPATION IN THE SOUTH AFRICAN ECONOMY

SEC. 203. (a) The Congress declares that—

(1) the denial under the apartheid laws of South Africa of the rights of South African blacks and other nonwhites to have the opportunity to participate equitably in the South African economy as managers or owners of, or professionals in, business enterprises, and

(2) the policy of confining South African blacks and other nonwhites to the status of employees in minority-dominated businesses,

is an affront to the values of a free society.

(b) The Congress hereby—

(1) applauds the commitment of nationals of the United States adhering to the Code of Conduct to assure that South African blacks and other nonwhites are given assistance in gaining their rightful place in the South African economy; and

(2) urges the United States Government to assist in all appropriate ways the realization by South African blacks and other nonwhites of their rightful place in the South African economy.

(c) Notwithstanding any other provision of law, the Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans.

## EXPORT-IMPORT BANK OF THE UNITED STATES

SEC. 204. Section 2(b)(9) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "(9) In" and inserting in lieu thereof "(9)(A) Except as provided in subparagraph (B), in"; and

(2) by adding at the end thereof the following:

"(B) The Bank shall take active steps to encourage the use of its facilities to guarantee, insure, extend credit, or participate in the extension of credit to business enterprises in South Africa that are majority owned by South African blacks or other nonwhite South Africans. The certification requirement contained in clause (c) of subparagraph (A) shall not apply to exports to or purchases from business enterprises which are majority owned by South African blacks or other nonwhite South Africans."

## LABOR PRACTICES OF THE UNITED STATES GOVERNMENT IN SOUTH AFRICA

SEC. 205. (a) It is the sense of the Congress that the labor practices used by the United States Government—

(1) for the direct hire of South Africans,

(2) for the reimbursement out of official residence funds of South Africans and employees of South African organizations for their long-term employment services on behalf of the United States Government, and

(3) for the employment services of South Africans arranged by contract, should represent the best of labor practices in the United States and should serve as a

model for the labor practices of nationals of the United States in South Africa.

(b) The Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall promptly take, to the extent permitted by law, the necessary steps to ensure that the labor practices applied to the employment services described in paragraphs (1) through (3) of subsection (a) are governed by the Code of Conduct.

## WELFARE AND PROTECTION OF VICTIMS OF APARTHEID BY THE UNITED STATES

SEC. 206. (a) The Secretary of State shall acquire, through lease or purchase, residential properties in the Republic of South Africa that shall be made available, at rents that are equitable, to assist victims of apartheid who are employees of the United States Government in obtaining adequate housing. Such properties shall be acquired only in neighborhoods which would be open to occupancy by other employees of the United States Government in South Africa.

(b) There are authorized to be appropriated \$10,000,000 for the fiscal year 1987 to carry out the purposes of this section.

## EMPLOYMENT PRACTICES OF UNITED STATES NATIONALS IN SOUTH AFRICA

SEC. 207. (a) Any national of the United States that employs more than 25 persons in South Africa shall take the necessary steps to insure that the Code of Conduct is implemented.

(b) No department or agency of the United States may intercede with any foreign government or foreign national regarding the export marketing activities in any country of any national of the United States employing more than 25 persons in South Africa that is not implementing the Code of Conduct.

## CODE OF CONDUCT

SEC. 208. (a) The Code of Conduct referred to in sections 203, 205, 207, and 210 of this Act is as follows:

(1) desegregating the races in each employment facility;

(2) providing equal employment opportunity for all employees without regard to race or ethnic origin;

(3) assuring that the pay system is applied to all employees without regard to race or ethnic origin;

(4) establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families;

(5) increasing by appropriate means the number of persons in managerial, supervisory, administrative, clerical, and technical jobs who are disadvantaged by the apartheid system for the purpose of significantly increasing their representation in such jobs;

(6) taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health; and

(7) implementing fair labor practices by recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity.

(b) It is the sense of the Congress that in addition to the principles enumerated in subsection (a), nationals of the United States subject to section 207 should seek to comply with the following principle: taking reasonable measures to extend the scope of influence on activities outside the workplace, including—

(1) supporting the unrestricted rights of black businesses to locate in urban areas;

(2) influencing other companies in South Africa to follow the standards of equal rights principles;

(3) supporting the freedom of mobility of black workers to seek employment opportunities wherever they exist, and make provision for adequate housing for families of employees within the proximity of workers' employment; and

(4) supporting the rescission of all apartheid laws.

(c) The President may issue additional guidelines and criteria to assist persons who are or may be subject to section 207 in complying with the principles set forth in subsection (a) of this section. The President may, upon request, give an advisory opinion to any person who is or may be subject to this section as to whether that person is subject to this section or would be considered to be in compliance with the principles set forth in subsection (a).

(d) The President may require all nationals of the United States referred to in section 207 to register with the United States Government.

(e) Notwithstanding any other provision of law, the President may enter into contracts with one or more private organizations or individuals to assist in implementing this section.

## PROHIBITION ON ASSISTANCE

SEC. 209. No assistance may be provided under this Act to any group which maintains within its ranks any individual who has been found to engage in gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

## USE OF THE AFRICAN EMERGENCY RESERVE

SEC. 210. Whenever the President determines that such action is necessary or appropriate to meet food shortages in southern Africa, the President is authorized to utilize the existing, authorized, and funded reserve entitled the "African Emergency Reserve" to provide food assistance and transportation for that assistance.

## ASSISTANCE TO BEIRA CORRIDOR PROJECT

SEC. 211. Of the funds authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), \$30,000,000 shall be available only for the Beira Corridor Project to improve the transportation infrastructure of the Front Line States.

## ASSISTANCE TO SOUTH AFRICAN REFUGEES

SEC. 212. In addition to any amount used for the Human Rights Fund for South Africa, up to \$4,000,000 may be used each fiscal year for refugee education assistance programs under the Foreign Assistance Act of 1961 and section 2(b) of the Migration and Refugee Assistance Act of 1962.

## TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID

## PROHIBITION ON THE IMPORTATION OF KRUGERRANDS

SEC. 301. No person, including a bank, may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

## PROHIBITION ON THE IMPORTATION OF MILITARY ARTICLES

SEC. 302. No arms, ammunition, or military vehicles produced in South Africa or any manufacturing data for such articles may be imported into the United States.

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PROHIBITION ON THE IMPORTATION OF  
PRODUCTS FROM PARASTATAL ORGANIZATIONS

SEC. 303. (a) Notwithstanding any other provision of law, no article which is grown, produced, or manufactured by a parastatal organization of South Africa may be imported into the United States, except for those strategic minerals for which the President has certified to the Congress that the quantities essential for the economy or defense of the United States are unavailable from reliable and secure suppliers.

(b) For purposes of this section, the term "parastatal organization" means a corporation or partnership owned or controlled by the Government of South Africa.

PROHIBITION ON COMPUTER EXPORTS TO SOUTH  
AFRICA

SEC. 304. (a) No computers, computer software, electronic components or goods or technology intended to manufacture or service computers may be exported, directly or indirectly to South Africa.

PROHIBITION ON THE SALE OR EXPORT OF ITEMS  
ON THE MUNITIONS LIST

SEC. 304. No item contained on the United States Munitions List which is subject to the jurisdiction of the United States or which is exported by a person subject to the jurisdiction of the United States may be exported to South Africa.

## PROHIBITION ON LOANS TO SOUTH AFRICA

SEC. 305. (a) Notwithstanding any other provision of law, no United States person may, directly or through another person make any loan or other extension of credit to or provide funds for the purpose of making a loan or other extension of credit to any South African person or to any corporation, partnership, or other organization which is owned or controlled by South African nationals or which is organized under the laws of South Africa.

(b) The prohibition contained in this section shall not apply to any loan or extension of credit for which an agreement is entered into before July 23, 1986.

(c) The prohibition contained in this section shall not apply to any loan or extension of credit for any educational, housing, or health facility which is available to all persons on a nondiscriminatory basis and which is located in a geographic area accessible to all population group without any legal or administrative restriction.

PROHIBITION ON AIR TRANSPORTATION WITH  
SOUTH AFRICA

SEC. 306. (a)(1) The Secretary of State shall terminate the Agreement Between the Government of the United States of America and the Government of the Union of South Africa Relating to Air Services Between Their Respective Territories, signed May 23, 1947, in accordance with the provisions of that agreement.

(2) Upon termination of such agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals from engaging in air transportation with respect to the United States.

(3) Notwithstanding any other provision of law, including any international agreement, the Secretary of Transportation shall prohibit the takeoff and landing in South Africa of any aircraft by any air carrier owned, directly or indirectly, by a national of the United States or by any corporation or other entity organized under the laws of the United States or of any state.

(c) The Secretary of Transportation may provide for such exceptions from the prohibition contained in subsection (a) as the Secretary considers necessary to provide for

emergencies in which the safety of an aircraft or its crew or passengers are threatened.

(d) For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

PROHIBITIONS ON NUCLEAR TRADE WITH SOUTH  
AFRICA

SEC. 307. (a) Notwithstanding any other provision of law—

(1) the Nuclear Regulatory Commission shall not issue any license for the export to South Africa of production or utilization facilities, any source or special nuclear material or sensitive nuclear technology, or any component parts, items, or substances which the Commission has determined, pursuant to section 109b. of the Atomic Energy Act, to be especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes;

(2) the Secretary of Commerce shall not issue any license for the export to South Africa of any goods or technology which have been determined, pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, to be of significance for nuclear explosive purposes for use in, or judged by the President to be likely to be diverted to, a South African production or utilization facility;

(3) the Secretary of Energy shall not, under section 57b.(2) of the Atomic Energy Act, authorize any person to engage, directly or indirectly, in the production of special nuclear material in South Africa; and

(4) no goods, technology, source or special nuclear material, facilities, components, items, or substances referred to in clauses (1) through (3) shall be approved by the Nuclear Regulatory Commission or an executive branch agency for retransfer to South Africa,

unless the Secretary of State determines and certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that the Government of South Africa is a party to the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, or otherwise maintains International Atomic Energy Agency safeguards on all its peaceful nuclear activities, as defined in the Nuclear Non-Proliferation Act of 1978.

(b) Nothing in this section shall preclude—

(1) any export, retransfer, or activity generally licensed or generally authorized by the Nuclear Regulatory Commission or the Department of Commerce or the Department of Energy; or

(2) assistance for the purpose of developing or applying International Atomic Energy Agency or United States bilateral safeguards, for International Atomic Energy Agency programs generally available to its member states, for reducing the use of highly enriched uranium in research or test reactors, or for other technical programs for the purpose of reducing proliferation risks, such as programs to extend the life of reactor fuel and activities envisaged by section 223 of the Nuclear Waste Policy Act of 1982 or which are necessary for humanitarian reasons to protect the public health and safety.

(c) The prohibitions contained in subsection (a) shall not apply with respect to a particular export, retransfer, or activity, or a group of exports, retransfers, or activities, if the President determines that to apply the prohibitions would be seriously prejudicial to the achievement of United States

nonproliferation objectives or would otherwise jeopardize the common defense and security of the United States and, if at least 60 days before the initial export, retransfer, or activity is carried out, the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth that determination, together with his reasons therefor.

PROHIBITION ON COOPERATION WITH THE  
ARMED FORCES OF SOUTH AFRICA

SEC. 307a. Notwithstanding any other provision of law, no funds may be obligated or expended for any cooperation, directly or indirectly, with the armed forces of the Government of South Africa.

## PROHIBITION ON U.S. GOVERNMENT ACTIVITIES

SEC. 307b. (a) None of the funds appropriated or otherwise made available by any provision of law may be available for any assistance to investment in, or any subsidy for trade with South Africa, including but not limited to funding for trade missions in South Africa and for participation in exhibitions and trade fairs in South Africa.

(b) None of the funds appropriated or otherwise made available by any provision of law may be available to promote United States tourism to South Africa.

(c) On or after the date of enactment of this Act, no department, agency, or other entity of the United States may enter into a contract with any corporation or other business enterprise organized under the laws of South Africa or which is 50 percent or more beneficially owned by South African nationals.

(d) On or after the date of enactment of this Act, no department, agency or other entity of the United States may enter into a contract for the procurement of goods or services produced or performed in South Africa.

RESTRICTIONS ON ISSUANCE OF VISAS TO SOUTH  
AFRICAN NATIONALS

SEC. 308. (a) The Congress finds that—

(1) American journalists, scholars, and clergy, among others, have experienced problems in obtaining visas to visit South Africa; and

(2) South African officials may have visited the United States to gather, surreptitiously, information useful in circumventing the international arms embargo in effect against South Africa.

(b)(1) Notwithstanding any other provision of law, the President shall define a class of persons consisting of all officials of the Government of South Africa, including individuals performing services for the Government of South Africa, and members of their immediate families.

(2) On or after the date of enactment of this Act, no visa for admission to the United States may be issued to any individual in such class except on a case-by-case basis in the discretion of the Secretary of State.

(3) No visa issued before the date of enactment of this Act to a nonimmigrant alien described in section 101(a)(15)(A) of the Immigration and Nationality Act shall be valid after a date which is 30 days after the date of enactment of this Act, unless such visa is sooner renewed.

## SALES OF GOLD STOCKS

SEC. 309. Whenever the President determines that such action is necessary or appropriate to affect the price of gold on the world markets and thereby to carry out the purpose of this Act, the President is authorized to sell United States gold stocks on the open market and to engage in other transactions involving gold in such manner as the President may prescribe.

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## GOVERNMENT OF SOUTH AFRICA BANK ACCOUNTS

SEC. 310. (a) A United States depository institution may not accept, receive, or hold a deposit account from the Government of South Africa or from any agency or entity owned or controlled by the Government of South Africa except for such accounts which may be authorized by the President for diplomatic or consular purposes. For purposes of the preceding sentence, the term "depository institution" has the same meaning as in section 19(b)(1) of the Federal Reserve Act.

(b) The prohibition contained in subsection (a) shall take effect 45 days after the date of enactment of this Act.

## PROHIBITION ON IMPORTATION OF URANIUM AND COAL FROM SOUTH AFRICA

SEC. 311. (a) Notwithstanding any other provision of law, no—

- (1) uranium ore,
- (2) uranium oxide,
- (3) coal,
- (4) diamonds,
- (5) textiles,
- (6) crude oil or refined petroleum products,
- (7) agricultural commodity or product, or
- (8) article that is suitable for human consumption,

that is produced or manufactured in South Africa may be imported into the United States.

(b) This section shall take effect 90 days after the date of enactment of this Act.

## PROHIBITION ON NEW INVESTMENT IN SOUTH AFRICA

SEC. 312. (a) No national of the United States may, directly or through another person, make any new investment in South Africa.

(b) The prohibition contained in subsection (a) shall take effect 30 days after the date of enactment of this Act.

## TERMINATION OF CERTAIN PROVISIONS

SEC. 313. (a) The provisions of sections 301 through 312 and sections 501(c) and 503(b) shall terminate if the Government of South Africa—

- (1) releases political prisoners and Nelson Mandela from prison;
- (2) repeals the state of emergency in effect on the date of enactment of this Act and releases all detainees held under such state of emergency;
- (3) unbans democratic political parties;
- (4) repeals the Group Areas and Population and Registration Act; and
- (5) publicly commits itself to good faith negotiations with truly representative members of the black majority without preconditions.

(b) The President may suspend or modify any of the measures required by sections 301 through 312 or section 501(c) or section 503(b) thirty days after he determines, and so reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that the Government of South Africa has—

- (1) taken the action described in paragraph (1) of subsection (a),
  - (2) taken three of the four actions listed in paragraphs (2) through (5) of subsection (a), and
  - (3) made substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy,
- unless the Congress enacts within such thirty-day period, in accordance with section 602 of this Act, a joint resolution disapproving the determination of the President under this subsection.

## AUTHORITY TO PERMIT STATES WHO POLITICAL SUBDIVISIONS OF STATES TO ENFORCE STATE OR LOCAL ANTI-APARTHEID LAWS

SEC. 314. (a) Notwithstanding any other provision of law and subject to subsection (b)—

(1) the eligibility of a State or a political subdivision of a State to receive funds under any Federal law; and

(2) the amount of funds which a State or a political subdivision of a State is eligible to receive under any Federal law, shall not be affected by the application of any anti-apartheid law of the State or political subdivision to a contract entered into by the State or political subdivision which is funded in whole, or in part, with funds provided by the Federal Government.

(b) The Federal Government shall not be responsible for the payment of the amount of any increase in the cost of any contract entered into by a State or political subdivision of a State if such increase is a result of the application of an anti-apartheid law of that State or political subdivision.

(c) For purposes of this Act—

(1) the term "anti-apartheid law" means a law which requires a State or a political subdivision of a State to include in contracts entered into by such State or political subdivision provisions and conditions relating to the contractor's business relationships in South Africa or to limit or condition the award of contracts on the basis of such relationships or to take such relationships into consideration in the award of contracts; or a law which prohibits or restricts the purchase of goods originating in South Africa; and

(2) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

## TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

## NEGOTIATING AUTHORITY

SEC. 401. (a)(1) It is the policy of the United States to seek international cooperation with the industrialized democracies on measures which will encourage an end to apartheid. The net economic effect of such cooperation should be at least equal to the net economic effect of the measures imposed by this Act.

(2) For purposes of paragraph (1), the term "net economic effect" means the cumulative impact on the South African economy as a whole of the measures imposed under this sections 301 through 312.

(b) Negotiations to reach international cooperative arrangements with the other industrialized democracies should begin promptly and should be concluded not later than 180 days after the date of enactment of this Act.

(c) If the President successfully concludes an international agreement on measures described in subsection (a), he may, 30 days after the text of such agreement has been received by the Congress, adjust, modify, or otherwise amend the measures imposed under any provision of sections 301 through 312 to conform with such agreement.

(d) Each agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if (and only if)—

(1) the President, not less 30 days before the day on which he enters into such agreement, notifies the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the agreement, the President transmits a document to the House of Representatives and to the Senate containing a copy of the final text of such agreement together with—

(A) a description of any administrative action proposed to implement such agreement and an explanation as to how the proposed administrative action would change or affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interest of United States foreign policy and as to why the proposed administrative action is required or appropriate to carry out the agreement; and

(3) a joint resolution of disapproval has not been adopted within 30 days of transmittal of such document to the Congress.

## UNFAIR TRADE PRACTICES

SEC. 402. The Congress declares that it shall be an unfair trade practice under section 301(a)(1)(B)(ii) of the Trade Act of 1974 for any foreign person, partnership, or corporation to benefit from or otherwise take commercial advantage of any sanction or prohibition against any national of the United States imposed by or under this Act.

## PRIVATE RIGHT OF ACTION

SEC. 403. (a) Any national of the United States who is required by this Act to terminate or curtail business activities in South Africa may bring a civil action for damages against any person, partnership, or corporation that takes commercial advantage or otherwise benefits from such termination or curtailment.

(b) The action described in subsection (a) may only be brought, without respect to the amount in controversy, in the United States district court for the District of Columbia or the Court of International Trade. Damages which may be recovered include lost profits and the cost of bringing the action, including a reasonable attorney's fee.

(c) The injured party must show by a preponderance of the evidence that the damages have been the direct result of defendant's action taken with the deliberate intent to injure the party.

## TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA

## ADDITIONAL MEASURES

SEC. 501. (a) It shall be the policy of the United States to impose additional measures against the Government of South Africa if substantial progress has not been made within 12 months of the date of enactment of this Act in ending the system of apartheid and establishing a nonracial democracy.

(b) The President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate within twelve months of the date of enactment of this Act, and every twelve months thereafter, a report on the extent to which significant progress has been made toward ending the system of apartheid, including—

(1) an assessment of the extent to which the Government of South Africa has taken the steps set forth in section 101(b) of this Act;

(2) an analysis of any other actions taken by the Government of South Africa in ending the system of apartheid and moving toward a nonracial democracy; and

(3) the progress, or lack of progress, made in reaching a negotiated settlement to the conflict in South Africa.

(c) If the President determines that significant progress has not been made by the Government of South Africa in ending the system of apartheid and establishing a nonracial democracy, the President shall in-

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clude in the report required by subsection (b) a recommendation on which of the following additional measures should be imposed:

(1) a prohibition on the importation of steel from South Africa;

(2) a prohibition on military assistance to those countries that the report required by section 507 identifies as continuing to circumvent the international embargo on arms and military technology to South Africa;

(3) a prohibition on United States banks accepting, receiving, or holding deposit accounts from South African nationals; and

(4) a prohibition on the importation into the United States of strategic minerals from South Africa.

(d) A joint resolution which would enact part or all of the measures recommended by the President pursuant to subsection (c) shall be considered in accordance with the provisions of section 602 of this Act.

#### STUDY OF HEALTH CONDITIONS IN THE "HOMELANDS" AREAS OF SOUTH AFRICA

Sec. 502. The Secretary of State shall conduct a study to examine the state of health conditions and to determine the extent of starvation and malnutrition now prevalent in the "homelands" areas of South Africa and shall, not later than December 1, 1986, prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the results of such study.

#### REPORT ON SOUTH AFRICAN IMPORTS

Sec. 503. (a) Not later than 90 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on the extent to which the United States is dependent on the importation from South Africa of—

- (1) chromium,
- (2) cobalt,
- (3) manganese,
- (4) platinum group metals,
- (5) ferroalloys, and
- (6) other strategic and critical materials (within the meaning of the Strategic and Critical Materials Stock Piling Act).

(b) The President shall develop a program which reduces the dependence, if any, of the United States on the importation from South Africa of the materials identified in the report submitted under subsection (a).

#### STUDY AND REPORT ON THE ECONOMY OF SOUTHERN AFRICA

Sec. 504. (a) The President shall conduct a study on the role of American assistance in southern Africa to determine what needs to be done, and what can be done to expand the trade, private investment, and transport prospects of southern Africa's landlocked nations.

(b) Not later than 180 days after the date of enactment of this Act, the President shall prepare and transmit to the chairman of the Committee on Foreign Relations of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study conducted under subsection (a).

#### REPORT ON RELATIONS BETWEEN OTHER INDUSTRIALIZED DEMOCRACIES AND SOUTH AFRICA

Sec. 505. (a) Not later than 180 days after the date of enactment of this Act, the President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing a detailed assessment of the economic and other relationships of other industrialized democracies with South Africa.

Such report shall be transmitted without regard to whether or not the President successfully concluded an international agreement under section 401.

(b) For purposes of this section, the phrase "economic and other relationships" includes the same types of matters as are described in sections 201, 202, 204, 205, 206, 207, sections 301 through 308, and sections 311 and 312 of this Act.

#### STUDY AND REPORT ON DEPOSIT ACCOUNTS OF SOUTH AFRICAN NATIONALS IN UNITED STATES BANKS

Sec. 506. (a)(1) The Secretary of State shall conduct a study on the feasibility of prohibiting each depository institution from accepting, receiving, or holding a deposit account from any South African national.

(2) For purposes of paragraph (1), the term "depository institution" has the same meaning as in section 19(b)(1) of the Federal Reserve Act.

(b) Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report detailing the findings of the study required by subsection (a).

#### STUDY AND REPORT ON THE VIOLATION OF THE INTERNATIONAL EMBARGO ON SALE AND EXPORT OF MILITARY ARTICLES TO SOUTH AFRICA

Sec. 507. (a) The President shall conduct a study on the extent to which the international embargo on the sale and exports of arms and military technology to South Africa is being violated.

(b) Not later than 179 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study required by subsection (a), including an identification of those countries engaged in such sale or export, with a view to terminating United States military assistance to those countries.

#### TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

##### REGULATORY AUTHORITY

Sec. 601. The President shall issue such rules, regulations, licenses, and orders as are necessary to carry out the provisions of this Act, including taking such steps as may be necessary to continue in effect the measures imposed by Executive Order 12532 of September 9, 1985, and Executive Order 12535 of October 1, 1985, and by any rule, regulation, license, or order issued thereunder (to the extent such measures are not inconsistent with this Act).

##### CONGRESSIONAL PRIORITY PROCEDURES

Sec. 602. (a)(1) The provisions of this subsection apply to the consideration in the House of Representatives of a joint resolution under sections 313(b), 401(d), and 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Affairs of the House of Representatives.

(3)(A) At any time after the joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a pre-

vious motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(b)(1) The provisions of this subsection apply to the consideration in the Senate of a joint resolution under section 313(b), 401(d), or 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Relations of the Senate.

(3) A joint resolution described in this section shall be considered in the Senate in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(A) references in such paragraphs to the Committee on Appropriations of the Senate shall be deemed to be references to the Committee on Foreign Relations of the Senate; and

(B) amendments to the joint resolution are in order.

(c) For purposes of this subsection, the term "joint resolution" means only—

(A) in the case of section 313(b), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the report described in section 313(b) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on

the report of the President containing the determination required by section 313(b) of the Comprehensive Anti-Apartheid Act of 1986, disapproves of such determination.", with the date of the receipt of the report inserted in the blank;

(B) in the case of section 401(d)(3), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the document described in section 401(d)(2) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on the text of the international agreement described in section 401(d)(3) of the Comprehensive Anti-Apartheid Act of 1986, disapproves of such agreement.", with the date of the receipt of the text of the agreement inserted in the blank; and

(C) in the case of section 501(d), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the determination of the President pursuant to section 501(c) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on a determination of the President under section 501(c) of the Comprehensive Anti-Apartheid Act of 1986, approves the President's determination.", with the date of the receipt of the determination inserted in the blank.

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(d) As used in this section, the term "legislative day" means a day on which the House of Representatives or the Senate is in session, as the case may be.

(e) This section is enacted—

(1) as an exercise of the rulemaking powers of the House of Representatives and the Senate, and as such it is deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

## ENFORCEMENT AND PENALTIES

Sec. 603. (a)(1) The President with respect to his authorities under section 601 shall take the necessary steps to ensure compliance with the provisions of this Act and any regulations, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with this Act and such regulations, licenses, and orders.

(2) In ensuring such compliance, the President may—

(A) require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction described in this Act either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which a foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this Act; and

(B) conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(b) Except as provided in subsection (d)—

(1) any person that violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act shall be subject to a civil penalty of \$50,000;

(2) any person, other than an individual, that willfully violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act shall be fined not more than \$1,000,000;

(3) any individual who willfully violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than \$50,000, or imprisoned not more than 10 years, or both; and

(4) any individual who violates section 301(a) or any regulations issued to carry out that section shall, instead of the penalty set forth in paragraph (2), be fined not more than 5 times the value the krugerrands or gold coins involved.

(c)(1) Whenever a person commits a violation under subsection (b)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who knowingly and willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who knowingly and willfully carried out such act or practice,

shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(2) Paragraph (1) shall not apply in the case of a violation by an individual of section 301(a) of this Act or of any regulation issued to carry out that section.

(3) A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d)(1) Any person who violates any regulation issued under section 208(d) or who, in a registration statement or report required by the Secretary of State, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall be subject to a civil penalty of not more than \$10,000 imposed by the Secretary of State. The provisions of subsections (d), (e), and (f) of section 11 of the Export Administration Act of 1979 shall apply with respect to any such civil penalty.

(2) Any person who commits a willful violation under paragraph (1) shall upon conviction be fined not more than \$1,000,000 or imprisoned not more than 2 years, or both.

(3) Nothing in this section may be construed to authorize the imposition of any penalty for failure to implement the Code of Conduct.

## APPLICABILITY TO EVASIONS OF ACT

Sec. 604. This Act and the regulations issued to carry out this Act shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade this Act or such regulations.

## CONSTRUCTION OF ACT

Sec. 605. Nothing in this Act shall be construed as constituting any recognition by the United States of the homelands referred to in this Act.

## CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment No. 2414:

Robert Byrd, George J. Mitchell, Charles McC. Mathias, Patrick Leahy, Alan Cranston, Jeff Bingaman, Frank R. Lautenberg, Paul Sarbanes, Don Riegle, Gary Hart, Jim Sasser, Daniel K. Inouye, Edward M. Kennedy, John F. Kerry, Spark Matsunaga, Dale Bumpers, and Tom Harkin.

Mr. BYRD. Mr. President, for the information of Senators, this is an amendment that deals with sanctions against South Africa. The vote on the cloture motion will occur on the day after tomorrow in the event the cloture is not invoked in the Department of Defense authorization bill tomorrow.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to indicate to the majority leader that we are prepared to debate this amendment this evening or any time prior to the vote on cloture under the rules. Or we will be glad to set this amendment aside and move forward on the defense authorization bill for the time being, while we try to work out an appropriate agreement.

There has been good progress on the SDI issue. I know there are other amendments dealing with that in the defense authorization bill.

Those of us who are supporting the South Africa amendment do not want to disrupt the orderly process of the Senate on the defense bill, but we do wish to guarantee that we will at least have an opportunity prior to the recess to vote on the issue of economic sanctions against South Africa. So far, we have been frustrated in the attempt to get that assurance.

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As a result of the action taken yesterday by those who filed a cloture motion on the DOD bill, we would be prohibited from offering the South Africa amendment to that bill if cloture is invoked.

Our preference is to have a free-standing bill and to permit the Senate to vote on South Africa, but we have made no progress on that, and time is running out.

Senator WEICKER, Senator CRANSTON, and I and others hope, prior to the recess, to have a brief period of time to debate South Africa and to permit the Senate to work its will on the issue of economic sanctions. The amendment we have offered incorporates what has already been approved in the Foreign Relations Committee, plus a limited additional number of recommendations that were made by the Eminent Persons Group of the Commonwealth of Nations.

We can debate those issues in a timely way. It is still the desire of myself and the Senator from Connecticut to work with the majority leader to obtain the assurance that we can get a vote on this measure. We regret that we had to take this particular step, but nonetheless, we are committed to assuring that we have a vote before the recess.

I believe that it is imperative that the Senate as an institution speak to this issue prior to the recess. The step we have taken is the only way to get that assurance without a unanimous-consent request. There has been no indication whatsoever that such consent would be forthcoming.

So I indicate again to the leader and others that we are quite prepared to accommodate the schedule, but we are going to insist that we have some opportunity to vote on South Africa.

Senator WEICKER, Senator CRANSTON and I are asking the United States Senate—finally and at long last—to take action against apartheid in South